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OUR CONTRIBUTORS IN THIS ISSUE

Charles G. Douglas, III – Associate Justice, Supreme Court of the State of New Hampshire, U.S.A.; **Joseph D. Douglass, Jr.** – Senior Research Analyst, System Planning Corporation, Virginia, U.S.A.; **Edmund J. Gannon** – Research Associate, Library of Congress, Washington, D.C., U.S.A.; **Amoretta M. Hoeber** – Senior Research Analyst, System Planning Corporation, Virginia, U.S.A.; **Eleanor B. Morris** – Professor, University of Toronto, Canada; **Ljubo Sirc** – Professor, University of Glasgow, Scotland.

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ROGER PEARSON, *General Editor*

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THE NUCLEAR WARFIGHTING DIMENSION OF THE SOVIET THREAT TO EUROPE *

Joseph D. Douglass, Jr.
Amoretta M. Hoeber

Perceptions of the Soviet threat to Western Europe have been and remain a major factor in NATO defense planning. For many years, the U.S. and its European allies have based their policies and programs on a perception of the Soviet nuclear threat as high yield and indiscriminate, with an associated employment strategy geared to a quick and massive strike that for all practical purposes would annihilate Europe and hence serve no useful Soviet aim. Thus, the purpose of the Soviet nuclear force is usually presumed to be only to deter NATO use of nuclear weapons rather than to provide an option for warfighting. Nuclear warfighting is viewed as impossible, either with or against a force such as the Soviet's. From NATO's point of view, therefore, Western nuclear weapons cannot defend Europe, they can only destroy it.

As summed up in a recent Brookings study:

> One of the most disquieting aspects of Soviet doctrine is its implication that something called "victory" could emerge from a full-scale theater nuclear war. The term presumably refers to the destruction of enemy forces and occupation of vital areas of territory. However, "mass employment of nuclear weapons" as the preferred means of realizing those objectives almost certainly would entail enormous civilian and military casualties as well as the utter ruin of much, if not most, of the territory to be occupied. Also not to be discounted is the probable transformation of large areas into radioactive "deserts" incapable of supporting human or plant life. (1)

This judgment, the study continues, appears "eminently realistic" because of the Soviet nuclear deployment facing Europe:

* Portions of this article are also included in Douglass, Joseph D., Jr., "Soviet Nuclear Strategy in Europe: A Selective Targeting Doctrine?," *Strategic Review*, Vol. V, No. 4, Fall 1977; and Douglass, Joseph D., and Amoretta M. Hoeber, "An Overlooked Dimension of the Soviet Theater Posture," from the forthcoming book, *U.S. Defense Policy: Issues and Alternatives*, edited by Dr. James E. Dornan, Jr., late 1978.

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> Even a massive employment of Soviet TNW that did not provoke a nuclear response from NATO would deprive Europe of any industrial or agricultural value that might otherwise accrue to the U.S.S.R. (2)

This conclusion is an important part of the common perception. Even with *no* NATO nuclear response, a Soviet nuclear strike by itself is seen as sufficient to, in essence, destroy Europe. The implicit continuation of this line of thought is that the Soviets are, in effect, self-deterred from carrying out such a nuclear strike, at least partly because in the process they would destroy the very prize they seek to capture. This is, the study goes on to say, due to the yields of the Soviet systems:

> Over two-thirds of the Soviet TNW are believed to possess yields well in excess of the 13-kiloton Hiroshima bomb; more than 500 contain yields ranging from 1/2 to 3 megatons. (3)

This image of massive amounts of nuclear firepower aimed at Europe has been critical in the formulation of the NATO policy and posture to cope with the Soviet threat. One of the results has been that, since the late fifties, NATO has found it difficult to go much beyond the planning for an initial conventional phase. More specifically, extended defense in which nuclear weapons and nuclear warfighting are serious considerations has not received major attention. While there are both historical and doctrinal reasons for the Europeans' lack of interest in extensive warfighting limited to Europe, it is clear that one of the factors is the continuing predominant belief that should a war in Europe go nuclear, Europe would be reduced to a radioactive wasteland.

Further, the Soviets are presumed not to need large conventional forces in association with the use of such a nuclear capability. Almost universal destruction would preclude the necessity for all but a few forces to "mop up" or occupy the little that would remain undestroyed or uncontaminated by radioactive fallout. Hence, given this view of the nuclear strike, the large buildup in Soviet conventional capabilities over the past ten years can be and has been read as implying a Soviet shift at least partly away from the assumed massive, high-yield nuclear attack doctrine of the early sixties toward a doctrine of conventional emphasis. This shift is seen as one justification

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for the focus in NATO planning on the initial conventional defense.

Despite what is seen as a "shift" in Soviet doctrine toward initially conventional, or perhaps even conventional-only, conflict, the predominant belief is that *any* large-scale war or major Soviet aggression in Europe will "go nuclear," that escalation is automatic, even if no one, including the Soviets, wants it, and even if it would result in total destruction of Europe at a minimum and escalation to a strategic nuclear exchange at a maximum. Under this logic, the main — if not sole — objective of the West is seen as the avoidance of conflict, perhaps at almost any price. One version of this point of view was stated by Paul Warnke, formerly Assistant Secretary of Defense, now Director of the Arms Control and Disarmament Agency:

> The entire idea of major war in a nuclear age requires an analysis that is unprecedented. Where it involves nuclear powers engaged in defending what they regard as their vital national interests, neither side would be willing to lose a conventional war. Accordingly, the strategy of flexible response is inescapably limited. A protracted conventional war in Europe is inherently incredible. Indeed, NATO's possession of the capability to fight such a war indefinitely would add little to the alliance's deterrent strategy. Apart from limited conventional response to a limited and aberrational attack, it is hard to find any way-stations between successful deterrence and doom. (4)

All NATO needs in capability, in this view, is enough to "deter," to raise the specter of nuclear war — and to communicate the linkage between Soviet aggression and strategic war; this will insure that the Soviets appreciate the risks to themselves and the absence of benefits that would attend any military aggression towards NATO Europe. This will keep them "self-deterred"; NATO need make no further efforts. The mere presence of this escalation threat is not only sufficient, anything more is viewed as counterproductive. This is especially true of a nuclear capability that might be useable, which would be bad because then someone might actually be tempted to use it.

The impact and importance on NATO defense planning and

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alliance solidarity of the above-summarized perceptions has been immense. That there are persistent inconsistencies between the logical — and expressed — Soviet interest in preserving an occupiable, exploitable Europe and the presumed limitations of Soviet capabilities to those that are in the last analysis unusable because they bring exactly the opposite of the desired result has paralyzed much Western thinking. These inconsistencies have led the authors to reexamine Soviet political objectives, military doctrine, and capabilities as they relate to Europe since the late 1950s. This paper summarizes the results of that evaluation and argues that the common perception may be based on only part of the available data and may reflect a serious shortcoming in Western understanding of Soviet objectives, forces and doctrine.

Origins and Problems in the U.S. Perception of Soviet Doctrine and Strategy

In the late fifties the Soviets began a searching internal study on the impact of nuclear weapons on military affairs. This type of internal debate is inherent in the Soviet process of developing military thought. The study of the late 1950s, which resulted in a new military doctrine and what the Soviets refer to as a "revolution in military affairs," involved the highest level political and military leaders. In a unique set of circumstances, the West got a glimpse of both the process and the issues in the early 1960s, when a major collection of Soviet classified defense papers was provided to Western intelligence agents by Soviet Colonel Oleg Penkovskiy. (5) As the "close friend, confidant, and protege" (6) of General Sergey S. Varentsov, who, as Chief Marshal of Artillery in charge of the Tactical Missile Forces, was at the center of the high-level Soviet debates, Penkovskiy's access to the discussion within the top Soviet hierarchy was unusual. The intelligence prize for the West, therefore, was of extraordinary importance.

In passing this material to the West, Penkovskiy's motive is described as concern about the emerging Soviet national policy — more specifically, concern that the Soviet leaders were embarked on an insane course, that they might plunge the world into nuclear war, and that it was essential to warn the West, to open the eyes of the West to the magnitude of the danger.

The threat that Penkovskiy saw was a "new Soviet military

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doctrine" (7) which involved striking first with an attack designed to impose radioactive contamination through the use of megaton weapons, with the purpose of annihilating the enemy and rendering his territory useless. The lead article (8) in the "Penkovskiy papers," as they were later known, which Penkovskiy believed set the "theme for the entire series," (9) was by Lieutenant General A. I. Gastilovich. This article summarizes the premises of military doctrine for this sort of an attack on Europe:

> About 100 nuclear charges exploded in a brief period of time in a highly industrialized country with a territory of about 300-500 thousand square kilometers, will suffice to transform all of its industrial areas and administrative-political centers into a heap of ruins, and the territory into a lifeless desert contaminated with deadly radioactive substance. (10)

The nuclear charges referred to were described as being in the 2-megaton range by Marshal Sokolovskiy two years later in 1962. (11) One of the other "papers" that discussed the evolving strategy of dependence on "maximum radioactive fallout," (12) a paper by Major General S. M. Goryainov, calculated that "it would take about 120 bombs of twenty-megaton yield, properly placed" to achieve the same effect (13) on the United States.

This was the image of Soviet national policy and military doctrine that Penkovskiy conveyed to the West, an image of massive and essentially total destruction that was most convincing for Europe because of the contemporary deployment of the SS-4 and SS-5 MR/IRBM force, which were judged to have exactly the sorts of characteristics (yield, accuracy) to implement such a doctrine. This image is still the most common perception of Soviet strategy, doctrine, and capabilities today, as illustrated by the previous Brookings quote.

Unfortunately, Penkovskiy's perception as presented in the 1965 book that bears his name does not consider the "other side" of the issue that received even greater attention in the evolution of Soviet military thought in the late fifties and early sixties, the warfighting side. In fact, this perception does not even appear to recognize the rather considerable debate of the issue that took place in the Soviet Union and of which the above-cited articles appear to have been a part. This debate

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is discussed in the land mark Soviet treatise, *Military Strategy*, which first appeared in 1962 with subsequent editions in 1963 and 1968. (14) The importance of this book is, to this day, not widely appreciated in the West. As described in *Voyennaya Mysl'*, the official journal of the Soviet Ministry of Defense, *Military Strategy* was the first Soviet book on strategy to appear since before the Great Patriotic War. It was prepared by a collective of Soviet officers, both line and party, headed by Marshal V. D. Sokolovskiy. The book is included in the prestigious Officer's Library; it was nominated for the Frunzi prize in outstanding military literature, and, having been published by the Military Publishing House, was certain to have been carefully censored. Rather than just "an outward sign" of the "great military debate," (15) a description that subtly discredits the book, *Military Strategy* is officially singled out in *Voyennaya Mysl'* as being of particular value in identifying critical questions, and in working out the "collective views." (16) Rather than a mere outward sign, the book is probably better described as *the* national military strategy as adopted in the early sixties as represented at the unclassified level for wide-scale distribution.

One of the "questions" explicitly identified and discussed in the book is what:

> . . . constitutes the main military-strategic goal of the war: the defeat of the enemy's armed forces, as was the case in the past, or the annihilation and destruction of objectives in the enemy interior and the disorganization of the latter? (17)

The fact that this issue appears in the book as a "question," is evidence of the debate. The concept put forth by Gastilovich represented only one view on how to answer the question, the annihilation view. The other side was the traditional view, that of using the weapons for "defeat of the enemy's armed forces" rather than for destroying the population, that is, for counter-force, not countervalue.

The difference in force requirements between the two views is significant. For the annihilation approach, as indicated in the Gastilovich quote, one requires just a few hundred megaton-size weapons. This requirement alone should raise doubts about the common interpretation of Soviet strategy. The Soviets are credited with having about 500 SS-4 launchers; adding the SS-5

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launchers raises the total MR/IRBM launcher force to 600. Including refire capabilities increases the total missile inventory to at least 1,000 (18) or even possibly 3,000, as has recently been suggested, if a uniform refire capability of 4 missiles (in addition to the in-place missiles) is assumed. (19) A reserve force in just the MR/IRBMs larger than required by close to a factor of ten? Hardly likely; the Soviets were too concerned about efficiency, effectiveness, and scarcity of nuclear warheads in the early sixties to build in such a degree of conservatism. Perhaps the explanation is to be found by examining requirements posed by the view espoused by the other side of the of the debate, the traditional warfighting approach. For this approach one needs the capability to destroy hundreds, perhaps thousands, of discrete military targets that generally, insofar as the European theater is concerned, do not require large yields. The majority of the targets are either small, or soft, or both. Thus, the warfighting requirement is for thousands of smaller, perhaps kiloton-range weapons. In numbers this requirement more nearly matches what is known about the size of the Soviet stockpile. However, in the MR/IRBM case the yields ascribed to the systems do not match this requirement. An important question, then, is, do the ascribed yields constitute a valid picture of the force?

The authors believe that there is very little known about Soviet yields. Again, to treat only the MR/IRBMs, the nominal yield ascribed to these systems in the Western literature is commonly 1 megaton, (20), (21) which is within the 1/2 to 3 megaton range used in the Brookings study. While it is true that the missiles may be capable of delivering megaton-size warheads to targets in Europe, they are also undoubtedly capable of delivering smaller payloads. Therefore, the issue is whether *all* the warheads on the SS-4s and SS-5s really are in the megaton-range. The Soviet MR/IRBM missiles were deployed in the fifties and early sixties, long before there were any so-called hard targets (e.g., the French IRBMs) in European NATO countries. Most targets were essentially soft and did not require high yields, even with the accuracies of that time. The few that did may well have had some bearing on the missile size and maximum payload, given the relatively poor accuracy of the early-generation MR/IRBMs. Further, as will be discussed below, the Soviet resolution of the annihilation

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versus warfighting issue would have generated a need for *some* large-yield warheads. This requirement may also have driven missile characteristics. Yet it is inconsistent for the Soviets to have deployed large-yield weapons against targets where it was not necessary or even desirable to do so. Their force planning has long emphasized the importance of cost-effective application of military resources, which in this case would mean using the least amount of resources needed (i.e., the smallest warhead available) to do each particular job, insofar as possible. As one Soviet general officer put it:

> Initial attention is given to the selection of those enemy targets against which strategic nuclear means could be best used. Depending on the features of the strike targets, a selection is made of the nuclear weapon carriers (strategic missiles, missile-armed aircraft, submarines or surface craft) which could best and most rapidly execute the assigned mission *with minimum expenditure of explosive power*. (22) (Emphasis added)

While the Soviet Strategic Rocket Troops have a basic requirement for a long-range strike force against Western Europe, that is, for MR/IRBMs, they do not have a requirement for very many long-range *and* megaton-yield MR/IRBMs. (23) Thus, the likelihood of the Soviets placing maximum payload warheads on more than a few hundred of the several thousand MR/IRBMs is believed to be low. Rather, the authors believe that most of the several thousand warheads on the long-range systems assigned a European/NATO role may be considerably below the megaton range and that the average yield of the MR/IRBM initial strike force might be as much as an order of magnitude below the one-megaton perception. If this is true, then yield as well as numbers would clearly be more consistent with the traditional warfighting mission than with the annihilation approach.

Why has this issue not been more seriously explored?

What is believed to have happened is that our perception of Soviet yields has been driven by considerations such as Khrushchev's bombast and rhetoric on massive damage; the Soviet test series of 1961-1962 that emphasized multi-megaton shots; the simple momentum of the dominant nuclear philosophy of the fifties, i.e., the "more bang for the buck" approach; the annihilation portion of the Soviet strategic

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nuclear debate, as put forth in the Penkovskiy Papers; and the simple fact that the possibility that the Soviets might be building a nuclear warfighting capability, i.e., trying to make nuclear weapons useable, was unpopular, unacceptable, and contrary to our own national policy and objective of "putting the nuclear genie back in the bottle." There were, of course, a number of other factors that made the West predisposed to accept the image conveyed by Penkovskiy, including the fact that the inaccuracy of early missiles made them relatively unsuitable, according to Western calculations, for use against small military targets, and the history of the U.S. use of atomic weapons against Japanese cities. Nevertheless, despite the changes over time in technology and the considerable evolution in U.S. thought about potential uses of nuclear weapons, the image of Soviet nuclear doctrine developed in the early sixties persists today, and is even carried over into the Western assessment of the new Soviet IRBM, the SS-20. (24)

What remains largely unrecognized by the West is that, in addition to the second side of the debate, there was also a resolution of the annihilation-versus-warfighting issue, which was explicitly stated in *Military Strategy*:

> The theory of Soviet military strategy gives the following answer to this question: both of these goals should be achieved simultaneously. (25)

It is the authors' analysis, then, that there have been two distinct concurrent components of Soviet strategy, annihilation *and* warfighting, and that the U.S. and European image of what would happen in a war is dominated by the former and rarely considers the latter and its implications. Though the damage that would result from a nuclear war in Europe would certainly be far from trivial, and, although this fact will still tend to make the Europeans relatively uninterested in warfighting, the analyses done by the authors indicate that most Western analyses of the character and outcome of such a war inadequately characterize and almost certainly overstate the likely range of damage and destruction that the Soviets would inflict and hence underestimate the importance and value of a warfighting capability.

Soviet Political Objectives and Military Doctrine

In the Soviet Union, military doctrine is synonomous with

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national security policy. Military doctrine is for, rather than by, the military. It comes from the political leadership, which includes military representation, and, in particular, from the Central Committee of the CPSU. It is the political direction that underlies their military capability and preparations for war.

> Military doctrine is elaborated and defined by the state leadership. (26)
>
> The Central Committee of the Party . . . evolves Soviet military doctrine. (27)
>
> Military doctrine is a state's system of views and instructions on the nature of war under specific historical conditions, the definition of the military tasks of the state and the armed forces and the principles of their development, as well as the means and forms of solving all of these tasks, including armed combat, which stem from the war aims and the social-economic and military-technical resources of the country. (28)

This is important to understand because it is so different from the ways in which doctrine applies in the Western system. In the Soviet Union there is only one doctrine, it is military doctrine, and it is the political direction to the military.

Further, it is extremely difficult to find inconsistencies between the promulgations of the military doctrine and writings in the field of military strategy. And, on that rare occasion when writings in strategy or in other areas of military science appear to go astray, they are quickly corrected, often by the military, and the author is redressed for the errors of his ways.

Throughout the Soviet literature, there is no question that policy comes first and plays the leading role. The preeminent importance is particularly stressed as it relates to nuclear weapons:

> . . . the decision to employ such devastating weapons as nuclear weapons has become the exclusive prerogative of the political leadership. It is primarily the political, not the military leaders who determine the necessity of employing weapons of mass destruction, who specify the principal targets and when they are to be hit. (29)

When nuclear weapons were incorporated into the Soviet force structure in the late fifties, they were adopted as a weapon of strategic significance by which the political leadership itself

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could accomplish strategic results directly, independent of battles and traditional military operations. This was a major aspect of the Soviet revolution in military affairs and more technically is referred to as the change in the correlation of tactics, operational art, and strategy. The political leadership not only sets policies for the use of nuclear weapons but directs the war effort. Doctrine consolidates the guidance prior to the outbreak of war and presents it to the military for their use in preparing for war, which is the major domain of military strategy, as discussed in *Voyennaya Mysl'*:

> Of all factors which affect military strategy, the most important are political factors, which determine the nature and goals of a war and the scale of employment of armed forces. This influence is due essentially to the role played by the military doctrine of the state, which officially consolidates specific principles, methods and forms of preparing for and waging war in case of an attack by imperialist aggressors. (30)

The political objectives are, therefore, a field of immense importance in analyzing Soviet military doctrine and strategy. The major objective of their policy is the centerfold objective of their ideology: the triumph of communism over capitalism and, more specifically, the transformation of capitalist states into communist states. As reported in a 1967 political indoctrination article in *Voyennaya Mysl'*:

> Of basic importance for the Marxist-Leninist doctrine of war and the army under modern conditions was the scientific definition of the modern epoch as a transition from capitalism to socialism, an epoch of the downfall of imperialism and the triumph of socialism and communism on a worldwide scale which was given by the CPSU and other Marxist parties in 1960. (31)

The advent of nuclear weapons and the possibility of nuclear war led to a number of basic changes in the Soviet approach to achieving this *long* term objective. In particular, they recognized that a world nuclear war could have devastating consequences and as such could be detrimental to "social progress" i.e., to the building of worldwide communism. Thus, at the 20th Party Congress in 1956, the CPSU changed its view on the inevitability of world war with the imperialists and, instead, began stressing the need to prevent such a war, which they believe

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would most likely either start with the use of nuclear weapons or soon become nuclear. For example, as stated in the mid-sixties:

> War with the employment of nuclear weapons can undermine the very foundations for the existence of human society and inflict tremendous damage to its progressive development. Therefore, the most important requirement for progress in our time is the prevention of a new world war. Capitalism, as the main obstacle on the way to the progressive development of human society, must and should be eliminated by the revolutionary struggle of the popular masses under conditions of peaceful coexistence of states with different social systems—world war is not necessary for this. (32)

While it is clear that the Soviets understand the possible consequences of nuclear war, this does not mean, however, that they do not believe it can be won and can and should be prepared for. As stated in *Voyennaya Mysl'*, world nuclear war has two aspects, "first the necessity of its prevention, and second the possibility of its being waged." (33) The unmistakable tenet of Soviet military doctrine is that, while such war is to be averted, it is to be prepared for and, if it occurs, they will thus be victorious and recover. As a matter of policy, because the consequences are so severe, preparing for such a war is considered the most important task for military strategy:

> Of all wars which are possible in the modern era, a world nuclear rocket war, which the imperialist aggressors, primarily the USA are preparing against the socialist community, chiefly against the Soviet Union, as the most powerful of the socialist states, presents the main danger. Therefore, in the content of Soviet military doctrine, the chief place is occupied by positions pertaining to problems of preparing and waging world nuclear rocket war. (34)

Hence a nuclear warfighting capability is an unmistakable component of Soviet military doctrine.

Clearly, the threat of such a war has placed certain constraints on the Soviet "revolutionary spirit." This has been particularly true in Europe where the risk of escalation associated with any non-trivial military action (and to some

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extent, threat of action, as was the case in Berlin) has been considered unacceptably high. The removal of this constraint, or reduction of the risk, i.e., the decoupling of a war in Europe from a general nuclear war, is believed to be a major Soviet political objective. A major thrust of the military portion of their approach to doing this is through strategic superiority. As generally recognized by the Soviets and explicitly stated, in this case in a text developed by the Lenin Military-Political Academy and thus representing the Party instructions:

> Superiority over the enemy creates conditions for a variety of combat actions, makes it possible to manifest flexibility in the creation of combat formations and operational organization of the troops, and the ways and forms of their effective utilizations; it enlarges the range for a combination of fire (nuclear strike) and maneuver, and also increases the effectiveness of the utilization of space, time, and other factors included one way or another in military actions. (35)

More specifically, regarding the impact of strategic superiority on freedom of action in the theater:

> In this dialectical interconnection of various levels in the relationship of forces two important moments focus attention on themselves. The first is that *superiority in the relationship of forces of the higher level creates favorable conditions for the successful military actions of lower levels*, and the possibility of supplying the superiority of forces in the military actions of a lower level contributes to the change in the relationship of the forces of the higher level. (36) (Emphasis added)

Further, picking up the sword and shield themes first introduced by the U.S. in the fifties, the Soviets more recently stated that

> The defensive might of the countries of the socialist community, the reliable shield of which is the nuclear potential of the Soviet Union, proved to be, and continues to prove to be, a deterrent to the aggressive circles of imperialism. (37)

And:

> A cardinal change in the correlation between war and politics at the present time is the fact that the growth in the might of socialism and other peace-loving forces, as

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> well as the fact that the USSR wields a mighty "nuclear sword," make it possible to check the force of aggression: world war has ceased to be an inevitability. (38)

The Soviet "nuclear sword" is used to ward off *world* war.

There are limits to how certainly a European conflict can be separated from a world war, however, and the Soviets recognize that there will always be a risk of escalation. At the same time, while expounding on the difficulty of limiting a war, part of which appears designed to influence the West not to develop limited capabilities or think they (the West) can expect to limit such a conflict, the Soviets also see the need to attempt to limit such a war and develop for themselves the relevant capabilities. One of the clearest statements of Soviet interests in limiting war is contained in a critique of a Soviet mid-sixties book on peace and war. The author of the review is Lt. Col. Rybkin, who was associated with the Lenin Military-Political Academy and thus is speaking from the Party side of the military. Col. Rybkin is often cited in *Voyennaya Mysl'* and elsewhere for his noteworthy contributions to military literature. The book under review apparently suggests that local wars initiated by the capitalists have as their goal the undermining of the strength of the world system of socialism, and further, that such wars can turn into worldwide nuclear war very quickly. These are both common propaganda themes in the Soviet literature. Rybkin's criticism of this is particularly illuminating:

> In the first place not every local war has the aim of directly undermining the world system of socialism. The imperialists conduct the majority of such wars against the national liberation movement. This, of course, indirectly damages the social camp insofar as it is a blow against the united front of progressive forces.
>
> In the second place, historical experience has shown that only two local wars have turned into world wars . . . . The author says further that "it is entirely possible" that the aggressor will use nuclear weapons in a local war. This is a correct statement, but again it is doubtful that this would "immediately" turn the war into a world war. In any case, it is in the interest of the Soviet Union and of all progressive mankind to put an end to the local war or to limit it and defeat the aggressor with limited forces. Solving this problem is one of the important tasks in

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developing military theory in its present stage. (39)

Thus, while there is always a risk of escalation, the Soviet view is that this risk is not the whole story, not only because neither the Soviets nor the U.S. want to escalate, but also because the amount of risk is seen as a function of the scenario and may vary widely depending on the individual circumstances behind and perceptions of the crisis. It is considered far from inevitable. Given this Soviet view, for the U.S. to fail to examine seriously nuclear war in and confined to Europe because of the common assumption that it will be deterred through the threat of inevitable escalation may overlook a set of scenarios that are more representative of the type that Soviet strategy may be striving to ensure is the case, that is, selective nuclear use geared to rapid success of ground forces.

Europe is clearly an immediate strategic target in the Soviet quest to bring about the worldwide transition from capitalism to socialism. While they would clearly prefer to accomplish this without war, and are likely to exploit all opportunities to do so, war is still, in the Soviet eyes, a very real possibility and a contingency to prepare for. Should a war in a land theater such as Europe develop, the Soviet strategy, in addition to warding off world war, is both to prevent any invasion into socialist countries and to seize and occupy the enemy territory. As stated in *Military Strategy*:

> The main purpose of military operations in land theaters is the decisive defeat of enemy units, the capture of vitally important regions and objectives and the occupation of his territory, and also the prevention of an invasion by land armies into the socialist countries. (40)

This is one of the primary rationales for their ground forces:

> Final defeat of enemy troops, capture of his territory, the establishment of proper order and peaceful control over all problems after the war can be attained only as a result of operations of the ground troops. (41)

In the Soviet literature, and reflecting their long-term perspective of war and their political goals, victory is attained only when the enemy's forces are destroyed and strategic regions of the enemy's territory are seized and occupied, thus insuring that the enemy can never again challenge the Soviet Union. These objectives are to be achieved as swiftly and decisively as possible and all forces and means would be

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employed without hesitation if in the Soviet assessment such use would bring about victory more quickly and efficiently. The need to seize and occupy is at the very core of the Soviet military strategy toward Europe.

An additional essential part of war-winning is the objective of recovery. The Soviets do not believe that war would be the end of civilization; hence, the subject of the post-war world, including problems of occupation and recovery, receives major consideration. A captured Western Europe is viewed as important in achieving this objective, and invariably the underlying theme is not to destroy Europe but rather to seize it relatively intact. This would facilitate both continuing the "social progress," i.e., building Communism, and also would preserve the assets for the Soviet Union's own use. The implications here are obvious: if the Soviet Union were severely damaged in a conflict, European resources could contribute significantly in reconstituting Soviet power. Thus, the objective is not to destroy the territory but rather only to attack those discrete targets that present the greatest immediate threat to the Soviet success:

> The objective is not to turn the large economic and industrial regions into a heap of ruins (although great destruction, apparently is unavoidable), but to deliver strikes which will destroy strategic combat means, paralyze enemy military production, making it incapable of satisfying the priority needs of the front and rear areas and sharply reduce the enemy capability to conduct strikes. (42)

Thus the authors' quarrel with the common perception of the Soviet threat. It seems clear that the Soviet objective is to seize and occupy; the role of the ground forces in doing this with or without the concurrent use of nuclear weapons is essential and should not be read as a shift away from nuclear use. Further, the nuclear use under Soviet consideration may be very different from that assumed in the Western perception of the threat. The normal perception of the Soviet targeting strategy as a massive, initial nuclear strike with high-yield indiscriminant systems *implies* massive destruction. But, what the Soviets mean when they say "massive" is rarely, if ever, examined, and the possibility of a strike being simultaneously massive *and* discriminant or selective, is not considered, in spite

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of clear statements of Soviet doctrine, such as those above, which indicate a rather considerable interest in controlling damage and preserving the European assets intact for the benefit of the Soviet Army and economy.

Explicit Soviet Interest in Selective Attack

In addition to having missed a dimension of Soviet force characteristics and doctrine in the early days of the nuclear revolution, and perhaps because of that gap, most Western analyses appear also to miss later expressions of Soviet interest in selectivity and reducing damage. Additionally, most Western analyses of nuclear war in Europe are conditioned by worst-case assumptions and mirror-imaging of the U.S. approach to damage criteria, weapon selection, and employment strategy for particular targets. This process almost guarantees that the calculated estimates of damage will be overstated and the belief that Europe will be reduced to a cinder perpetuated. The fact that Soviet political objectives, military strategy, targeting, damage criteria, weapon selection, and concepts of "massive" may be very different from ours is rarely taken into account. Evidence on these aspects that indicates Soviet interest in a capability for controlling collateral damage in an attack on Europe appears to be largely unrecognized.

The point of departure for understanding the interplay between these political objectives and nuclear targeting is the basic Soviet nuclear targeting strategy. As indicated in 1967 by Marshal of the Soviet Union N. I. Krylov, then Commander-in-Chief of the Strategic Rocket Forces, this strategy includes the following target classes:

- weapon delivery systems
- weapon storage sites
- weapon fabrication facilities
- military bases and facilities
- military industries
- centers of political-military administration
- command/control centers. (43)

As "strategy," this enumeration applies to all services and to all theaters of military operation. There is *no* suggestion, however, that all target elements on the list are to be hit in all theaters or in all types of conflict. For example, the selection of targets could be quite different for Western Europe and for

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the United States. To select which classes and targets should be actually engaged in a particular case, it is necessary to consider where the targets are and what the political objectives are relative to that strategic region.

The importance of identifying and separately analyzing different theaters of military operations was emphasized in late 1964 in a *Voyennaya Mysl'* article on the "Subdivision and Classification of Theaters of Military Operations." As far as can be determined, this was the first clear Soviet statement on the role of different political objectives in planning attacks on different theaters of military operations. The article begins by pointing out that subdivision and classification of theaters is of:

> great practical importance . . . in order to be able to use in *one's own interest* the military-political, military-economic, military-geographic and directly operational-strategic elements characteristic of this or that theater. (44) (Emphasis added)

Military-political refers to the people; military-economic to the industrial base; military-geographic to the physical land; and operational-strategic to the enemy assets (e.g., NATO airbases) which the Soviets would use for accomplishing major missions.

In planning for a war, the General Staff is to subdivide the world into strategic regions. The type and characteristics of the attack for each region may be governed by different objectives; in particular, "defeat, destruction, or capture" are alternative objectives. The application of military force is to be consistent with the objective for the particular region:

> From this point of view, the various theaters of military operations play by no means identical roles. And consequently there will be essential differences in the strategic mission, the forces, and the material brought into action in the various theaters, and in the ways in which they are used. (45)

Destruction, per se, is undesirable. It destroys valuable assets – economic, industrial, agricultural, people – that the Soviets would like to have, and holds up, rather than advances, social progress (i.e., the building of Communism.)

The problem for the Soviet planner with regard to Europe, is, thus, how to destroy the capability of Europe to resist the Soviet armed forces without destroying those prizes in Europe

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that the Soviet Union might want to seize intact. In 1966, a solution to the problem was presented in a *Voyennaya Mysl'* article titled "Military Geography at the Present Stage." The whole thrust of this article is on the need to identify vulnerable points to achieve objectives at minimum cost. There is no need to destroy an entire industry, for example; what is necessary is to identify those vulnerable points, choke points, or Achille's heels, that will put an industry out of action. Further, it is not necessary to put something out of action permanently, but only for the initial period (i.e., during the period of priority needs). During that time, the Soviets expect to have accomplished their objectives and occupied the area. The article elaborates:

> The most important task is to correctly determine economic objectives and targets and vulnerable points, and to deliver strikes to those targets where it will lead to disorganization of the enemy economy.
>
> The objective is not to turn the large economic and industrial regions into a heap of ruins (although great destruction, apparently is unavoidable), but to deliver strikes which will destroy strategic combat means, paralyze enemy military production, making it incapable of satisfying the priority needs of the front and rear areas and sharply reduce the enemy capability to conduct strikes. (46)

Destruction as an objective applies only to "strategic combat means." One reason for leaving the remaining targets only "paralyzed" or with their capability "sharply reduced" seems clearly stated:

> The destructive nature of modern warfare, the difficulty of transporting material means from the depth of a country and the great vulnerability of rear area organs make it necessary to devote serious attention to a study of the possibilities for acquiring local resources in theaters of military operations.
>
> For this purpose, it is very important to determine which targets and enemy regions should be left intact or rapidly reconstructed and used in the interests of strengthening the economic potential of our own country and for supplying the troops.
>
> It is important to determine which, what, where and in what quantity the local resources can be stored and used

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> in the interests of the troops. It is important also to determine what are the conditions for acquiring or using local resources (the presence of electric-power and transport means, manpower resources, transport capability, etc.). (47)

Two contingencies may underly this analysis, as briefly discussed above. First, the Soiets presumably recognize that if NATO nuclear forces are employed as planned in Eastern Europe and the Soviet Union, it may be very difficult to move supplies into the theater from the Soviet Union. The task would be all the more difficult in the event of a global conflict. The forces that take Western Europe must thus be able to maintain their independence and operate, if necessary, without support from the mother country. (48) Second, the degree of destruction of Western Europe is something over which the Soviet Union would have a great deal of control, because they alone would be attacking the region. Considering the expected damage to the Soviet Union and the obvious strategic priority placed on the recovery of the Soviet Union, harnessing the resources of Western Europe for the recovery process would not be an unreasonable strategy. Hence, they might plan on a two-part recovery program, partially supported in Europe and partially in the Soviet Union.

It is notable that a year and a half later, the author of the article cited above published another article which appeared to be providing the Soviet General Staff with follow-up guidance on target analysis – including key factors to be considered and examples of critical or vulnerable points, taken from both World War II and the contemporary scene. The focus was on victory and how one strikes different regions in different manners to achieve victory. This article, "The Question of Influences on Military and Economic Potential of Warring States," also in *Voyennaya Mysl'*, suggests, again, an objective of damage reduction in Europe. It states that where a nation is planning to achieve victory over an enemy quickly, seize his vital areas, and drive particular states out of the war (which are all explicit Soviet objectives relative to Europe), it tries not to destroy everything but rather to preserve as much as feasible for its own use.

> In the past if one of the warring countries, in planning military actions, counted upon quickly destroying the

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> enemy army, seizing his vitally important areas and driving any particular state out of the war, it did not attempt to destroy the industrial installations. On the contrary, it was interested in preserving them for the support of its own troops and the entire country. In such a case, air attacks and other means of destruction were directed only against those targets which, during the planned period of military operations, provided the enemy with the greatest capability for active resistance. This proposition is confirmed by numerous examples. (49)

The remainder of the article was directed to an examination of World War II strategic bombing and to the lessons that should be drawn from that experience. The basic conclusion was that the mission of World War II strategic bombing was correct but that it was not carried out with great effectiveness – first, because insufficient forces and means were applied, a condition which the nuclear weapon corrected, and second, because there was inadequate consideration of critical and vulnerable areas. The article suggested that the key industrial components – power, fuel and transport – did not become targets until the very end of the war, and, further, that even then the vital nerve centers of German industry were paralyzed only when the strikes were focused on key branches rather than on the industry as a whole. The article argues that the generalized attack of cities did not accomplish any strategic aims.

Two examples of critical and vulnerable points whose destruction could cripple a very large industry were pointed out. One example related to World War II:

> During the past war the U.S. staff section for the study of strategic bombing calculated that the Allied Air Command made a serious error by not selecting as a first priority target the sole and very vulnerable plant for the production of dibromoethane. This plant produced the ethyl compound required for high grade gasoline and which is so necessary that not one modern airplane can fly without it. Specialists maintain that the bombing of this single target could have caused greater damage to the German air forces than was caused by all the saturation bombings against aircraft plants throughout the war. (50)

The second example related to the contemporary environment:

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> For example, it is sufficient to destroy a few enterprises producing transistors in order to extremely restrict the production of missiles for all branches of the armed forces. And even strikes on area objectives are directed at that portion of the target which is of vital importance to a country or a coalition of countries. In determining these targets application should be made of the industrial branch principle and the selection of the critical link in the economy. (51)

In analyzing targets, the General Staff was, in effect, directed to consider a wide variety of variables: the first being the determination of the political as well as military effect of the strike, and, "first and foremost," when these effects will be felt. (52) Further, the article reiterates the importance of political factors:

> Political motives can force the abandonment of strikes against *extremely important* economic and military targets or their implementation with smaller forces and means and on a *selective basis*. (53) (Emphasis added)

As summarized at the conclusion of the article:

> It is obvious that the need for a thorough evaluation of the political situation when sapping the military and economic potential of warring states assumes incomparably greater importance under conditions of a nuclear war.
>
> At present political conditions will be considered when selecting regions for delivering nuclear strikes on a country-wide scale and when determining the number of objectives, the priority of inflicting strikes, and the methods of destruction of industrial, administrative-political and other centers. (54)

Thus, it appears that many considerations enter into the determination of which target classes and targets will be hit and when. The first strike might well be directed to only a few classes of particularly important targets. There might be country-wide withholds in the first strike, particularly in light of the Soviet political strategy of driving individual nations out of the coalition on the eve of the war and during the initial period of the war. There might be regional withholds within countries where physical damage is to be avoided. And there might even be withholds on individual "extremely important

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economic and military targets."

Furthermore, the Soviets do not often talk about cities as targets in themselves. In most of their literature about Europe, the Soviet objective is to seize, occupy, and establish proper order and control. This is a main purpose of the large combined-arms forces, a significant portion of whose literature is on how to fight in and capture cities rather than simply destroy them with nuclear weapons. Additionally, the Soviets state that they need to exercise considerable caution before striking a target in a city because the rubble produced will often cause more problems than the strike will solve: destroyed cities cannot be driven through easily and, hence, impede military operations. (55) Even when there might be a sound military reason for hitting a city, the political leaning of the population is to be carefully evaluated before deciding to strike. (56)

Further, the type of weapon, its height of burst, (57) and its yield, are to be selected with as much care as the target set. The need to exercise considerable care to avoid using surface bursts which produce undesirable radioactive fallout is explicitly stated. The Soviets are clearly aware of the problems of radioactive contamination and of the westerly nature of the prevailing winds. The fallout will head their way and, where localized, will impede their own troop operations. Indeed, the Soviets recognize that there would be no need for large numbers of troops in association with a nuclear strike which resulted in large areas of destruction:

> If the enemy, as the result of nuclear strikes, is completely destroyed and his territory becomes a massive zone of destruction and contamination, there is no need to consider offensive operations of ground troops in general. (58)

Hence, while it is not precluded that surface nuclear bursts can be planned against *deep* objectives, it is emphasized that the kind and location (relative to the path of tank forces, for example) must be very well planned, inasmuch as such bursts may create zones of radioactive contamination, destruction, inundation and fires. (59) Also the Soviets recognize that air bursts are more effective against many types of targets since such bursts maximize the immediate blast and radiation effects, hence allow the use of smaller yields for the same degree of immediate target destruction.

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Small yields accurately delivered are preferred because they cause less unwanted damage. This is reflected in the Soviet interest in the use of more accurate delivery means, such as air, to avoid "destroying the entire objective." (60) The use of multiple small-yield weapons as an alternative to one large-yield burst is also discussed as a means of avoiding unnecessary physical destruction as well as reducing radioactive contamination.

Also, the Soviet approach to determining the yield required for a particular target has certain aspects that are significantly different from the Western approach. The West tends to use very conservative assumptions in selecting yields to destroy targets. This often results in the selection of yields over a factor of 10 greater than what is required to achieve a specified tactical effect. (61) The Soviets have some different motivations in targeting because they are, in the first instance, striving for a short war and subsequent seizure of the targeted area. Hence, they select yields with this in mind. Rather than conservatively destroying the target, the Soviet point of view is that it is often sufficient to attack it only enough to put it out of commission for a few days or a week, that is, to put it "out of action" until it can be seized and turned to Soviet use. (62) They also refer to the need to consider subsequent "rapid reconstruction and use" in selecting the warhead yield. Thus, the Soviet strategy expresses a war-fighting requirement not for large indiscriminate systems, but for small discriminate weapons. As stated in a 1969 *Voyennaya Mysl'* article on technology and questions of strategy:

> Theses of Soviet military strategy primarily reflect the political strategy of the Communist Party of the Soviet Union. It is in the interests of political strategy that military strategy makes use of the achievements of scientific-technical progress which materialize in weapons of varying power.
>
> Some of these weapons are capable of doing considerable damage to a continent, others only to individual states. This would retard the social progress of their peoples for a long time. Finally, still others lead to defeat of the enemy's armed forces without doing essential injury to the economy or populace of states whose aggressive rulers unleashed the war.

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> Only political leadership can determine the scale and consistency of bringing to bear the most powerful means of destruction, in accordance with the interests of all mankind as a whole, the interests of the Communist movement and the national interests of Soviet citizens. (63)

And, Soviet military strategy:

> . . . is directed to understand all the new weapons and their capabilities, to study carefully all the ways in which the war can begin, and to insure that the leadership has at its fingertips various combinations for winning the war in accordance with the political objectives. (64)

Soviet strategy toward Europe thus includes notions of selective targeting or controlled nuclear war. These concepts are, however, not necessarily the same as U.S. concepts under the same names. Such Soviet concepts coexist with the principles of decisive victory, simultaneous destruction of the war-making potential of the enemy, short war, and recovery. The concepts of "selective" and "controlled," as identified to date in the Soviet literature, focus on issues of reducing unnecessary collateral damage, exercising selectivity against certain target countries or regions, and assuring the maximum effective application of force. In contrast to Western concepts, the Soviet notion of "selective" does not appear to imply "limited in number." Thus, such a concept is not intuitively inconsistent with the stockpile as suggested above and may be closer to the truth.

This does not say that the Soviets do not have the capability to destroy Europe. Quite the contrary, they undoubtedly do. Initially, that may have been the easiest and only way to satisfy the defense needs of the Soviet Union. The destruction option is inexpensive; all that is required is a few hundred indiscriminate systems. As a long-term solution, however, the option is clearly contrary to their national objective of building communism. That is, as stated in the quotation above, it would "retard the social progress." Hence the need to move toward an effective *useable* nuclear force, and, as indicated in the preceding pages, certain facets of their thought process in the mid- to late-sixties were clearly moving in that direction. The massive destruction option would be retained, as indicated by Sokolovskiy, but probably only as a fallback position or

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as a massive destruction retaliatory or coercive threat. The employment of such an option, however, would be counter-productive and inconsistent with the political and military objectives of the war. Given these concepts, the Soviet view of a nuclear war, at least in its initial period, does not mesh with the Western image of necessary total devastation of Europe.

Soviet Nuclear Planning and Command

The Soviets describe their approach to nuclear planning and command as rigid or absolute centralization, involving considerable preplanning. In the West this rigidity and pre-planning most often is viewed as leading to inflexibility and to a command system that does not have the capability for selective and controlled nuclear war, even if this were desired. In this area, also, the authors believe there is another facet to the interpretation that is usually overlooked.

The Soviet military structure is organized in a manner very different from that of the U.S. It is designed to "controlled" operationally as well as strategically from the top; this is what is meant by rigid or absolute centralization. As an example of the extent to which this concept of control pervaded the past, during World War II, three times a day Stalin received briefings in the form of detailed layouts on 1:200,000 maps. The information presented included the disposition, conditions and mission objectives for each of the armies, corps, divisions, and even critical regiments for each of the thirteen fronts. Plans for actions down to this level were formulated at the top and approved by Stalin. (65) The key executive agent for accomplishing this was the General Staff. (66)

Evidence implies that the penchant for control at the top has continued through the nuclear revolution. In the late 1950s, the Soviet Union not only accepted but embraced nuclear weapons as the most important tool of the military structure; the nuclear weapon "was recognized at once as a means of strategic significance" (67) and, as such, was incorporated into the force at the highest level. Nuclear weapons are regarded as the means by which the *highest strategic command* itself can act directly on the conflict and determine what happens in a war:

Modern strategic means of armed conflict . . . are located

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> in direct subordination to the high command, and . . . make it possible to achieve decisive results in gaining victory in war often without utilizing the forces and means of the tactical and operational element . . .
>
> Thus the strategy, which in the past was nourished by the achievements of tactics and operational art, now is given the possibility to gain, by its own independent means, the war aims regardless of the outcome of battles and operations in the various areas of armed conflict. (68)

In World War II, the weapons were in the hands of the front line troops, which fought the battles. Successful battles led to success in operational campaigns which, in turn, were consummated by victory in the war. The advent of nuclear weapons changes all that, according to Soviet thinking, because in the nuclear revolution the nuclear weapon is viewed first as a strategic leadership means for accomplishing strategic misssions, independent of what happens in individual battles. (69)

The extent of the role of the leadership is indicated by the following quotation from *Voyennaya Mysl'*, in the mid-1960s:

> The decisive means of achieving the goals of modern war are rocket and nuclear weapons, with their unlimited effective range and tremendous destructive capabilities. This requires maximum centralization of control of the principal nuclear-rocket weapons in the Supreme Command, particularly in the initial period of war, for here and only here is it possible to decide correctly and most effectively questions concerning objectives of nuclear strikes, targets for destruction, power of warheads, means for delivering them to the targets, type of explosive effect, time for delivery of strikes, and issue orders for signal dispatches. Only here can the authority be placed for 'pressing the button' to activate the principal weapons of war. The Supreme Command has thus become not only a directing organ of supervision, but also the immediate executor of the principal missions of the armed conflict.
>
> The most important task of the General Staff in preparing for a modern war is the detailed planning of the employment of nuclear weapons by all services of the armed forces. (70)

This planning for employment goes far beyond strict military

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matters, into the realms of political objectives, attack strategy and implications, and target selection criteria as discussed in the prior section:

> In selecting any specific region as the target and determining the sequence of nuclear strikes against it, first and foremost, it is necessary to determine the effect the strikes will have at a given time, the influence of the target on the progress of armed combat and on the functioning of the entire life of the country. It is also important to determine the quantity of forces and means required for destruction of the target and the capabilities of the enemy to rebuild. For this purpose it is important to study the relative importance of specific regions (objectives) to the industrial production of the country, especially in the output of production required in the manufacture of missiles and nuclear weapons and other modern material, the role of the region in the political life of the country, the degree that the given industrial complex is tied in with other branches of industry, the relative importance of the region as a population center of the country, and especially as a source of qualified and scientific-technical personnel, the vulnerability of the region and the extent that its industrial output can be produced by other industrial centers. (71)

While these statements demonstrate the scope of the General Staff in the detailed planning of nuclear strikes, this should not be considered to be the limit of their planning authority or activity, because their planning responsibilities extend also to mission assignment of all major force elements, including conventional fireplanning, air/ground coordination, and assault forces scheduling – in short, to "a unified strategic plan." (72) This is essential because they are planning a combined attack with rapid exploitation by combined arms forces. This requires extremely tight coordination among nuclear strikes and between those strikes and other force activities.

In the U.S., this centralization is viewed as causing an absence of flexibility, perhaps because it most often is judged according to the Western "preference" for flexibility at the scene of the action; that is, flexibility in the hands of the local commander in the field. At the same time, Western experience suggests that centralizing control at the top, however desirable from a

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political point of view, leads to inflexibility – decisions are difficult to make because information is sparse, communication capability is limited, etc. The Soviets, on the other hand, having had a long standing concept of centralized control at the top, have worked out procedures and tools to make that top level control responsive, rapid, effective, and, in their definition, flexible – flexible at the top. As stated by Sokolovskiy, in discussing World War II experience in *Military Strategy*:

> Summarizing what has been stated, it is necessary to emphasize in particular that the rigid centralization of the strategic leadership of the Armed Forces on the part of the STAVKA of the Supreme High Command and the flexibility of the methods of leadership which corresponded to changes in the situation ensured the successful conduct of a victorious war and the full achievement of its goals. (73)

The Soviet centralized approach to command and control is one that is inherently adaptable to the use of automation, which, indeed, has been embraced by the top Soviet leadership to improve significantly its command and control and staff operations. (74) This adoption of automation by the top military leaders is so important that it is called the third, or cybernetic, phase of the revolution in military affairs. (75)

Such an approach is also adaptable to the use of preplanning, and the Soviet emphasis on this is also often interpreted by the West as forcing a certain rigidity. But the Soviets believe in preplanning to enable lower commands to know quite clearly how to proceed even in the absence of command and control. This, however, represents an insurance policy: today's Soviet command and control system is designed to survive in a nuclear war, and the principal emphasis is not just on preplanning, but on planning and replanning in a minimum amount of time, which is a major reason why they have stressed the need for automation.

The Soviets view nuclear war as a very fast-moving and highly dynamic phenomenon. A major aim of their command and control system has been to be adaptable to sudden, unexpected changes of severe magnitude throughout the course of the war. In short, the Soviet General Staff has clearly attempted to develop and may well, in fact, have at its fingertips far greater capacity in control design, supporting technology, and

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authority of command for directing the war than many Western analysts recognize.

Weapon System and Force Improvements

Western anxieties over the past decade have focused with increasing intensity on improvements in Warsaw Pact conventional forces. Since the predominant image of the threat consisting of massive nuclear yield systems, use of which would result in total destruction, is inconsistent with large conventional forces, it is sometimes assumed that the buildup must mean a change in Soviet doctrine toward conventional war. The possibility that such a buildup might be as much for a different type of nuclear war is rarely considered.

This may once again have to do with mirror-imaging. When NATO has purchased conventional force improvements, it has been with a view to fighting a conventional war. These conventional forces have not entered prominently in discussions of nuclear defense, and, most often, do not appear to be designed to fight in a nuclear war. They are, in effect, strictly coventional war forces, and the nuclear weapons are strictly nuclear war weapons – their principal missions are to deter a nuclear conflict in Europe and to be considered for use if conventional defenses fail. The authors believe the Western analyses, again, may be missing a facet of the Soviet force posture by applying a similar dichotomy in assessing Soviet and Warsaw Pact capabilities.

It is true that the Soviet Union has significantly improved its conventional force capabilities over the past ten years and that a major thrust behind this buildup has been a Soviet objective to exercise quantitative and qualitative superiority over NATO in the conventional arena – as in all other arenas. The problem is not with the logic but rather with the interpretation that emphasizes only one half of the story – the concurrent improvements in nuclear warfighting are ignored in the process. In contrast to NATO, the Soviet Union has developed its conventional forces to fight also a nuclear battle. As the Soviets explicitly state, they need strong conventional forces to exploit a nuclear strike and to seize and occupy NATO territory. (76) Most of the Soviet conventional force improvements appear to have been purchased with this in mind. Nearly all of the systems are designed to function in nuclear and chemical environments

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as well as in conventional ones. For example, the Soviet tanks are equipped to operate in a chemical, biological and radiological (CBR) environment. The BMP is described as a weapon capable, among other things, of transporting troops across "contaminated areas," because of both shielding and the capability to maintain a positive air pressure within the vehicle. All Soviet forces are issued clothing and equipment designed for protection in a CBR environment. Further, the major developments in self-propelled artillery, in surface-to-air missile (SAM) capabilities and, most importantly, in command and control, are all explicitly discussed as essential improvements for conducting nuclear war. There is no indication that more than a very few improvements were purchased solely or even primarily for conventional war, and several systems (e.g., IRBMs and TBMs) and system improvements (e.g., in tactical nuclear aviation and artillery) are designed specifically for theater nuclear war.

A new IRBM just appearing, the SS-20, deserves special mention. We believe it synthesizes the present level of progress in the Soviets' efforts to achieve a full capability to implement their warfighting objective. The SS-20 has been described as a mobile missile replacement for the SS-4 and SS-5. The missile is reported to have a range of 2,000 miles, an order-of-magnitude better accuracy than the older SS-4s and SS-5s, and three MIRVs per missile that could "give the Soviets almost three times as many warheads as did the older MRBMs and IRBMs." (77) Using the lower bound of 1,000 for the older system missile inventory, this would translate to at least 3,000 highly-accurate SS-20 warheads. This need not imply more megatons, however. Because of the increased accuracy and the use of small multiple warheads rather than single large warheads, the total megatons in the force may well decrease. However, as indicated earlier, although little seems to be known about the yield of the SS-20 RVs, they are again assumed to be high yield:

> . . . The SS-20 provides a very substantial threat to NATO military capabilities and population centers, comprising as it does several warheads in each SS-20 of yields on the order of a megaton perhaps. You multiply that by the number of SS-20s and you get a very, very substantial military threat. It is not a military threat different in kind

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> from what has existed for many years, because the Soviets have had medium range and intermediate range missiles capable of reaching all parts of Europe since the 1960s both as I say in missile form and also medium range bombers, but SS-20 deployment reemphasizes this. It produces a new and highly capable system. One that is quite difficult to target in turn because it is a mobile system. (78)

The SS-20 has strategic ramifications insofar as it constitutes the lower two stages of the SS-16 ICBM, (79) but it can also be rationalized very well in terms of its contribution to a selective targeting strategy such as described above. The basic requirements of a Soviet warfighting, selective targeting strategy are accurate delivery capability and many, small warheads, to limit damage and radioactive fallout. The SS-20 appears to provide exactly these capabilities. It also provides some advantages far beyond the SS-4s and SS-5s because of its mobility. To appreciate the contribution of mobility, consider that the guidance to the Soviet General Staff, as noted above, was to review all targets and "first and foremost . . . the effect the strikes will have at a given time." If the strikes do not contribute significantly to "the priority needs" in the initial period of the war, one can infer that they would be withheld. Forces should be retained, however, to attack the withheld targets at a later time, if required. Such forces should be as secure as possible. Now and in the foreseeable future, the best way to achieve this security is through concealment and mobility. This could well be the rationale behind the SS-20's mobility.

More generally, regarding the Soviet view on conventional engagement in Europe, there are, of course, logical scenarios in which the Soviet Union might seek to secure its objective through application of conventional superiority without the use of nuclear weapons. After all, the Soviet Union's preference is to bring about its objectives — the transition from capitalism to socialism — without any war at all, or, if war is necessary, with a minimum of military force application. Yet, it is important not to confuse such a presumed logic in keeping the war conventional with Soviet assessments of the enemy (NATO) and the consequent Soviet military plans. The Western statements about nuclear use and escalation may well be read by the

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Soviets as foreclosing to them any option of lengthy conventional conflict independent of their own preferences. In sum, although there is no question that the Soviets intend to be superior in conventional forces, to suggest that their recent conventional buildup represents a major shift in strategy may misrepresent reality. The Soviets have expanded their capability to cover the conventional contingency as well as the nuclear contingency, and if either is more important in Soviet strategy it is clearly the nuclear contingency.

More recently, Soviet military exercises have also been invoked in discussions of possible changes in Soviet doctrine. While it is impossible to discuss in detail Soviet and Warsaw Pact exercises in this article, two points should be noted. First, the Warsaw Pact exercises in question have been conducted at relatively lower military levels in the theater, and have involved theater forces such as ground troops, frontal aviation, and operational-tactical missiles such as FROG and SCUD. The type of nuclear strikes described in the preceding sections of this paper are Strategic Rocket Troop (SRT) strikes; and, since the SRT is located in the Soviet Union, it is presumably exercised in the Soviet Union. Its role, therefore, may not necessarily be discerned in analyses of theater exercises.

The second consideration is the artificial nature inherent in the design of a military exercise and, in particular, the exercise scenario. Both NATO and the Warsaw Pact operate under significant military and political constraints in designing exercises. Militarily, both sides prefer to avoid "playing" many important scenarios because doing so might reduce the training value of the given exercise. There would be little utility to NATO, for example, in an exercise scenario in which it was assumed that the Soviets struck early and effectively eliminated most of NATO's command, control and communications, nuclear means, and major force concentrations (all prime Soviet targets), because there would be few NATO forces left to exercise. Similarly, from the Soviet point of view, even if they believed they had a capability for a quick and decisive strike at NATO which would effectively render NATO incapable of defending itself, the Soviets might not find exercising such a strike rewarding. It might end too quickly and without posing many challenges or problems to Soviet forces

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and their commanders.

Moreover, politically, there is an obvious interest in designing exercises so as not to reveal actual war plans. The most important element in Soviet strategy is surprise – tactical, operational, and strategic surprise (in their use of the words). The Soviet penchant for surprise and secrecy emphasizes "misleading the enemy as to one's own intentions" and "safeguarding the security of operational plans." (80) For that very reason, one should not expect to see in a Soviet war game the exercise of a strike designed to achieve surprise. On the contrary, one would expect them to play the scenario where the nuclear strike comes later than would be the case in actual conflict. This foreshortening of the conventional phase is explicitly suggested in a *Voyennaya Mysl'* article of late 1967:

> The successful beginning and development of combat operations by conventional means of destruction by one of the sides and the quickly growing danger of use of nuclear weapons by the other side might force the one side to abandon operations only by conventional means considerably before it succeeds in resolving the outlined minimum of missions despite the favorable premises for this. Finally, the duration of operations with the use of just conventional means can be sharply decreased for the purpose of achieving greater surprise of a nuclear strike and faster destruction of the enemy. (81)

In their military literature, the Soviets place persistent emphasis on the importance of surprise and, in particular, the unexpected use of nuclear weapons; on the potentially decisive importance of the first strike and associated need to strike first; and on the need to "forecast" or anticipate what NATO will do – and launch the Soviet strike first. As stated in 1974 by Minister of Defense Grechko, quoting Lenin:

> Hegemony in war belongs to the one who fights more energetically than all others and who uses any excuse to deliver an attack against the enemy. (82)

Indeed, an important Soviet scenario appears to be one in which the Soviets strike very early in a crisis – before NATO has mobilized and dispersed – and significantly damage NATO's command and control facilities, nuclear capability, and major force elements. For the reasons noted above, such a scenario is unlikely ever to be reflected in Soviet wargaming exercises.

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Implications

Ideally, NATO defense planning should take into account all reasonable aspects of Soviet strategy and capabilities which, presumably, NATO strategy and capabilities are designed to counter. Accordingly, if, as suggested in the preceding pages, the West has missed an important dimension of Soviet strategy, this may have far-reaching implications for the NATO alliance.

Partially for political and psychological reasons, NATO has avoided discussion of the concept of using nuclear weapons except as a deterrent; i.e., threatening a massive use to deter Soviet aggression and placing faith in the U.S. strategic nuclear umbrella. However, as the U.S. strategic deterrent has become increasingly neutralized by Soviet strategic forces, the credibility of that umbrella has come into question. Furthermore, despite U.S. efforts to move NATO toward increasing conventional capabilities, NATO has been uneasy with this as a solution to its security problem. NATO does not believe it can match Soviet conventional capability, and, moreover, is not interested in fighting, as contrasted to deterring, a war.

Recent NATO studies of tactical nuclear usage have opened up some new thinking. This was shown by the relatively favorable reception given the "Schlesinger strategy" in some European quarters; this strategy included in-theater use of selectively targeted strategic nuclear assets. The feature most appealing to the Europeans was that this strategy made more credible than before the prospect that the U.S. would, in fact, use its nuclear weapons – including its strategic weapons – in support of NATO. However much remains to be done in the way of development of capabilities and concepts for controlled and persuasive defense along the entire spectrum, including limited, selective nuclear use on NATO's part.

The tactical nuclear area presents a special problem. Most NATO nations tend to believe that fighting any sort of theater nuclear war is unacceptable. This belief has seriously hampered the development of NATO theater-nuclear doctrine, strategy, and capabilities. While the problem is extremely complex, it does appear to the authors that part of the belief stems from the image of Soviet "high-yield," "inaccurate," and "indiscriminate" capabilities and the presumed absence of Soviet interests in controlling damage. In the light of this image, improvement in NATO nuclear defense, in particular, is often viewed as

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counter-productive. One example, again from Paul Warnke's 1974 testimony, shows the logic:

> With regard to the small nuclear weapons, it seems to me that the development of such a new generation of tactical nuclear weapons would be an absolute disaster. . . . these weapons that might have lower yield and greater accuracy and presumably fewer collateral consequences would erode rather than strengthen deterrence . . . . they . . . would make the consequences of use . . . less dire . . . . smaller, neater, cleaner nuclear weapons might lead to their premature and unnecessary use . . . . And once the nuclear threshold is crossed the process of escalation could become irreversible . . . this would be particularly the case, I submit, if the other side did not have a supply of these new modern smaller, lower yield weapons and, as a consequence, could only respond with their older dirtier inventory. (83)

But, what if the Soviet capabilities, doctrine, and strategy are not as assumed by Warnke and many others?

An essential element in the process of improving the NATO position is a better understanding of the capabilities, strategy, and doctrine of the Soviets. Even if the U.S. does not follow through with the theater modernizations underway and proposed (strategic concepts are at the time of writing being reviewed by the Administration), it is still extremely important to continue to examine the validity of the popular image of a hugh mushroom cloud over Europe, an image which is one factor continuing to debilitate NATO planning and alliance solidarity. This article has presented some evidence to suggest that the popular image may be exaggerated and misleading. The evidence is still inferrential, yet it ties together force capabilities, stated Soviet military doctrine, and the logic of Soviet objectives in Europe. The hypothesis and its implications deserve additional thought.

FOOTNOTES

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(7) *Ibid.*, p. 251.

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(10) *Ibid.*, p. 252.

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(20) Congressional Budget Office, *op. cit.*, p. 22.

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SPOTLIGHT ON NIGERIA

By Edmund J. Gannon

Nigeria is the wealthiest and most populous nation in Africa. It is also the richest, and – with 65 million people – the largest black nation in the world. Encompassing an area of 357,000 square miles (about the size of California, Oregon and Washington combined), it is nevertheless ethnically and racially quite diverse, since the major tribal groupings of Hausa, Yoruba, Fulani and Ibo range from Sudanese-type Moslems, such as the Hausa, to Bantu-speaking true Negroes, such as the Ibo. It is therefore not surprising that mutual relations between these diverse groups have varied from friendly cooperation to bitter hatred and war.

As the most populous of Black African nations, and one of the major producers of oil – supplying some 25% of current U.S. petroleum imports – Nigeria could become one of the major political forces in today's world. Financially, it is far more powerful than many European countries, and as a potential leader and spokesman for Black African nationalism the non-African countries already listen carefully when Nigeria speaks.

The potential impact of Nigeria was recently highlighted at the 15th annual meeting of the Organization of African Unity in Khartoum. Of the 35 African leaders who attended (some being kept away, like Mauritania's President Moktar Ould Daddah – who was overthrown by a military coup shortly after he was due to leave for the airport – by political problems at home) it was Lieutenant General Olusegun Obasanjo who made the world headlines by his warnings to both the Communist nations and the Western nations against interference in African affairs. While this kind of statement has become commonplace for less significant African leaders, the world listened when Nigeria spoke. Acknowledging Western fears in regard to current Communist infiltration in Africa, he also warned against western economic "neocolonialism." There was nothing new about what he said. Like many other African leaders, he declared that Africans would never become truly communist or indeed capitalist (a statement which is seldom supported by convincing evidence). But what made it significant

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was the fact that Nigeria has the potential ability not only to influence the decision of other African nations, but also to influence the decisions of the western powers because of its economic and financial muscle.

Nigeria has already flexed this political muscle, and has for some time consistently opposed the white governments of southern Africa. However, its government has recently taken a further step. It has begun to require investors in Nigeria to choose between the South African markets and the Nigerian market. For many investors, of course, this is a painful choice. In addition, and perhaps a bit naively, the Nigerian government appears prepared to support any perceived opponent of South Africa. Thus, when South African troops, in 1976, came to the aid of pro-Western elements fighting the Popular Movement for the Liberation of Angola (MPLA), Nigeria immediately opted to support the MPLA.

> Nigeria wanted to serve notice that it would oppose not only South Africa's repressive government, but also anyone else in Africa whom that government supports. Nigeria's lobbying effort was decisive in persuading the divided OAU to recognize the MPLA early in 1976, despite Washington's opposition. (1)

Let us therefore take a look at Nigeria's social, economic and political history, with a view to assessing its potential moral impact on future and world events.

Political Evolution

In 1861 Britain annexed the area surrounding Lagos to suppress the slave trade. In 1914, the coastal area was combined with the ethnically diverse hinterland to form the unified protectorate of Nigeria. In 1960 Nigeria was granted independence within the context of a democratic, federal parliamentary democracy.

For five years the different regional (and ethnic) groups lived in an uneasy truce. However, in January 1966, a group of young Ibo officers instigated a coup, as a result of which the premiers of non-Ibo regions and the federal prime minister (Balewa) were murdered, and the Army Chief of Staff, Major General Ironsi, an Ibo took power. In May of that same year, Ironsi dissolved the federation and established a unitary state, but was assassinated two months later in another military coup

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which installed Lt. Col. Gowon, a northern Christian as chief of state. The demise of General Ironsi triggered a reaction to the latent anti-Ibo feelings of many Nigerians. The Ibo (in many respects the entrepreneurial class of Nigeria) operated businesses throughout the country. At least 30,000 were murdered in the northern Hausa region and another million were driven out of the north. In May 1967, Col. Ojukwu declared the Eastern (Ibo) Region independent as the Republic of Biafra. The Nigerian government responded by attacking the Biafrans and so began the Biafran War.

After thirty months of fighting, which probably took over a million lives, this war ended with a Biafran surrender. To his (and his country's) credit, General Gowon went to great lengths to avoid the establishment of a harsh peace, and within two or three years, the former secessionist area was once again largely integrated into the Nigerian body politic.

Gowon, himself, however, was overthrown by a military coup while out of Nigeria. His successor, General Muhammed, established himself as head of a military junta which ruled until February 1976 when Muhammed was assassinated by supporters of the deposed Gowon. The Army commander, Lt. Gen. Obasanjo was chosen to succeed the assassinated Muhammed by a military council.

Since then Nigeria has remained a military dictatorship. All political parties are banned and in 1976 the government proscribed eleven labor leaders from all future union activity, and took steps to reorganize the unions under government direction. All T.V. and radio stations are wholly owned by the government, as also all newspapers with only two exceptions. Nigeria has been ruled under the provisions of a "state of emergency" for the past eleven years, under which the government may detain individuals without trial.

Economic and Political Situation

For the past several years, Nigeria has prospered because of revenues from the export of oil, the world's most important commodity. The income from oil, however, has varied with world demand. According to a report of the United States government:

> Nigeria's oil-fueled boom is settling down to a more sustainable pace as the country struggles to contain

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> inflation and expand its infrastructure to suit development goals and aspirations. As a result of lower oil revenues caused by weak world market conditions, overall economic growth in 1977 was about 5% compared to the 8% averaged for most of the decade. Imports necessary for development promise to keep the balance of payments in deficit for years but the country's good credit rating should help maintain monetary reserves with loans projected at $4 billion through 1981. (2)

Nigeria exports approximately two million barrels of oil per day, much of it to the United States, which is Nigeria's foremost trading partner. In 1977, this generated $10 billion in foreign exchange.

Much of the foreign earnings has been used for economic development. Perhaps inevitably, this has led to a high rate of inflation as well as to economic dislocation.

> Even the oil revenues that are flowing into Nigeria are causing some problems. Largely because of the oil money, inflation is running at an estimated 25% to 40% a year.
>
> Moreover, rumors of high-paying, oil-related jobs, coupled with the 1972-1974 drought in northern Nigeria, have lured many young farmers into Lagos. As a result, Nigeria, a net exporter of food until the oil boom hit in 1973, had net food imports of about $1 billion last year. Commercial peanut production fell from 1.2 million tons in 1971 to just 2,000 tons last year, and revenues from such agricultural exports as cocoa, palm products and rubber also have declined. (3)

The population of the port of Lagos (Laos Island) has in a few years grown from about 300,000 to about three million (the Lagos metropolitan area may number as many as eight million), and the authorities have been unable to cater to the needs of such a rapidly growing population. In fairness it should be noted that no nation, no matter how wealthy, could have responded to such a rapid growth without arbitrarily excluding much of the population until the necessary infrastructure had been constructed. Closely related to this influx has been the reduction in food production in the rural areas as Nigerians from outlying regions leave their farms to seek the excitement and wealth associated with the oil centers.

Similarly the port of Lagos has been unable to cope with

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the mass of imports. Some cargo vessels have waited as much as a year to offload goods, and cargoes have often spoiled or decayed. Once ashore, there is insufficient storage space. Although communications are daily being improved, roadways and railways are still inadequate to transport the wealth of imports.

The new wealth is also bringing rapid social changes:

> Integration of Nigeria into the world capitalist system has consolidated traditional fortunes while allowing the rise of a money-conscious new middle class. Most students are now concerned to the point of obsession with getting a diploma, and business schools are booming. But the old northern families, though they too profit from the ambient prosperity are suspicious of oil. For them it represents "southern riches": it symbolises a technological, moneyed civilisation which shakes the very foundations of their Islamic and feudal social order. (4)

This last attitude contributed to the Hausa animus towards Ibo businessmen in northern Nigeria in 1966, reinforcing the traditional tensions.

Problems Facing Nigeria

Despite its oil wealth, Nigeria faces a number of challenges, both economic – spreading the new oil wealth and planning for future economic development – and politically, in preventing the country from reducing itself into warring ethnic factions.

The Nigerian military leadership is sensitive to both these issues. It recognizes that the oil boom cannot last forever and is making an effort to develop agriculture, as well as industry:

> Nigeria's third five-year plan contains a broad range of measures aimed at increasing agrarian productivity. Universities, army barracks, factories and private individuals are being called upon to cover their own food needs by planting crops and raising poultry and lifestock, not only in rural areas but in the cities as well.
>
> But the government's plans to improve agriculture go well beyond this more or less psychological campaign. In addition to the introduction of improved methods of crop cultivation they envisage the raising of the prestige and living standards of the country's farmers. In 1975 the farmers were granted a massive increase in crop prices,

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which had previously been kept artificially low. (5)

In the area of industrial development the mere infusion of money is insufficient to ensure success. Local technicians must be trained to assume the jobs now largely performed by Europeans and Americans, most notably in the technical and managerial levels. It is assumed that it will be a number of years before Nigerians are able to take over the full responsibility for the maintenance of their own industries.

So far as internal unity is concerned, the victory of the military representing the Sudanese and northern and western peoples over the more Negroid Ibo of the southeast, when the latter attempted to establish an independent state of Biafra (which would have taken with it most of the rich oil-lands) indicates the military government's determination to prevent any break-up of the present Nigerian borders, even though these reflect the accident of colonial conquest rather than any truly historical, linguistic, ethnic or racial boundary. The morality of the suppression of the Biafran (Ibo) demand for self-rule was severely questioned in the West at the time of that bloody and ruthless war, and should the government fail in its attempts to create a new sense of Nigerian "national" unity, any new demands for independence by any of the separate ethnic components of Nigeria could again bring into question the right of Nigeria's military rulers to lecture other nations on their morality. One other source of future internal dissension is also to be seen – and that is the potential dissatisfaction of an increasingly large (and necessarily increasingly influential) educated, civilian technocracy with military rule. The policy by which the government is sending large numbers of Nigerians to be educated in the U.S.A. and Europe, in order that Nigeria may become technically independent of foreign engineers and management, may well be planting the seeds for future political discontent of this kind.

The political problems remain undoubtedly dangerous. Nigeria has not yet developed a system which will permit a smooth transfer of power, or, indeed, any system of government other than military dictatorship. While current plans anticipate a return to civilian rule in 1979, most observers have adopted a "wait and see" attitude, and the extent of Nigeria's truly large potential impact upon world politics will depend largely on whether it can maintain the same continuity of

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purpose which it has achieved under recent military rule, while satisfying the public desire for political self-expression.

FOOTNOTES

(1) Jean Herskowitz, "Dateline Nigeria: A Black Power," *Foreign Policy*, (Winter 1977-1978), p. 186.

(2) U.S., Department of State, American Embassy, Lagos, *Economic Trends Report for Nigeria* (December 1977), p. 3.

(3) Richard R. Leger, "Despite Oil Wealth, Nigeria is Building an Array of Serious Economic Problems," *The Wall Street Journal* (March 31, 1978), p. 36.

(4) Jean-Pierre Langellier, "Nigeria: the Apprenticeship of Power," *The Guardian* (Manchester) (March 26, 1978), p. 13.

(5) Alexander Beck, "Chaos, Oil Boom and Self-Reliance in Nigeria," *Swiss Review of World Affairs* (January 1977), p. 11.

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MAOIST "CONTRADICTIONS" IN CANADA

By Eleanor B. Morris

The demise of Maoism in China and the abrupt termination of the Chinese Cultural Revolution brings to the forefront questions regarding the viability and practicability of Marxist political ideology. Every political slogan, phrase and cause that has confused us beyond the pale, such as right, left, liberalism, conservatism, democratism, republicanism, Marxist-Leninism, socialism, internationalism, and Maoism, are currently under question as anachronisms, tied to a diversity of times, industrial stages, and cultural entities which render them, in any commonly understood sense, disfunctional. Our political lexicon has become a veritable political vocabulary of Babel.

One can look at the history of Messianic dreams pricked by a pin of reality through any number of historical lenses. Canada's attempt, under the leadership of Pierre Elliot Trudeau, to present the diplomatic recognition of the People's Republic of China as a crystallisation of its own internal and external policies, makes a particularly interesting study. Canadian foreign policy analysts, whatever their attitudes towards Pierre Elliot Trudeau might be, all acknowledge that the Canadian recognition of the PRC had nothing whatsoever to do with what is commonly conceived by liberal Americans to be "acknowledgement of the existence of 800 million people," or the "lessening of world tension." (1)

It can be demonstrated that Trudeau and his allies have allowed Maoist doctrines to influence much of their own political thinking. Bruce Thordarson cites Trudeau, during a trip to the USSR in 1971, as stating that, "his government was concentrating on making Canada a better place and fulfilling the aspirations of Canadians," he said, and this had "some fall-out in the external field." (2) Indeed, the foreign policy hexagon presented to the Canadian House of Commons in 1971 should make it perfectly clear to any observer that the Trudeau administration felt positive sympathy for nations which had adopted a Marxist philosophy. (3)

Internationally, Trudeau has sought to move Canada quietly but surely into a leftist alignment. While relations between

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Canada and the United States have, by geographical necessity, been checkered, on the whole American and Canadian relations since 1812, and especially since World War I, have been extremely good. Americans are familiar with, and amused by, the kind of paternalistic attitude the Canadians have towards them, and therefore tolerate Canadians, such as Peter Dobell, when they say that: ". . . not being Americans and not participating in the Vietnam War, their (Canadian) judgment is not warped by considerations of pride and patriotism." (4) However, Americans are more surprised to hear from Dobell, that: "the Soviet threat is not now the overwhelming concern that it once was. Indeed, many Canadians have recently been preoccupied with the United States and France more than with the Soviet Union as a source of external danger." (5)

The recognition of the People's Republic of China by the Trudeau administration must indeed be seen as a conscious attempt to align foreign policy with internal goals: It more clearly reflects an identifiable policy which is best reflected in the words of Paul-Henri Spaak, who described Canadians as "the Yugoslavs of NATO." (6)

It is possible to document, as Thordarson has done, that the new Canadian foreign policy of independence from the USA and NATO was generated within the New Democratic Party and the academic community. (7) In recognizing the PRC, according to Thordarson and Dobell, Trudeau overrode the opposition of the parliament, manipulated a hesitant Liberal caucus, spurned the advice of the External Affairs department, and ignored the wishes of the public. Thordarson tells us:

> If the decision to seek diplomatic relations with China was not a difficult one for the Trudeau government, it at least required a conscious effort. Though opposition within Canada was declining, there was little public pressure in favour of recognition, and certainly none that the government could not have resisted with ease. (8)

Thus we may conclude that recognition of PRC was taken for the purposes of implementing – still undefined – "national aims." Furthermore, it reflected the aims of those who accepted socialism as the only solution to both internal and external conflicts or "contradictions" – to use the Maoist term. It reflected the aims and policies of those who have portrayed

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Canada as a country threatened by U.S. economic imperialism, and dangerously divided not so much by class conflicts as by regional divisions. To them, socialism could be perceived in Maoist terms as the solution to the problem of ethnic and regional conflicts and as a source of national unity in resistance against American economic domination.

Socialism Disguised as Canadian Nationalism

The vituperative anti-Americanism of the most influential academic advisors and bureaucrats of the Trudeau administration arises from a number of sources. The first, and probably the most catalytic, has come from America itself, in the form of the American liberal denunciation of American imperialism and monopoly capitalism that arose during the Vietnam War, spreading to Canada in concrete form via the surge of American draft dodgers and deserters and sympathizers who exiled with them. While these exiles initially met mixed reactions from the Canadian populace, a majority of them, in attempting to justify their actions and sentiments, became political activists in Canada, in the larger part joining the Canadian NDP or more extreme leftist groups, and acting as a constant political pressure group on the Canadian scene. The indigenous Canadian leftists effectively displayed these American exiles as proof of the insidious nature of "American imperialism."

Broadly characterized as the "New Mercantilism" by Canadian economists such as Levitt, Watkins, Lumsden, Watkins and a host of others, American growth and prosperity has been portrayed by Europeans such as Claude Julien as an "Empire Without Frontiers." Julien laments in his book *America's Empire*: "And woe to its allies who do not intend to submit to the will of the Empire: they are immediately denounced as narrow-minded nationalists exclusively preoccupied with the interests of their own countries. It is thus that an international mystique becomes the alibi of strictly nationalistic politics." (9) This concept had already been expressed by European nationalists who saw the world in terms of balance-of-power politics among trading nation-states. At the same time leftists cast the United States in the light of a great colonial power, succeeding where the Europeans had failed. Thus, Julien is able to quote the American liberal theorist, Max Lerner, while accusing America of economic

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imperialism:

> 'The business spirit has informed American foreign policy as it has informed every aspect of American power – the political machines, the legal system, the course of constitutional interpretation, the churches, the press, even the labor movement', in the words of Max Lerner. Motivated by the same spirit, the principle forces of the nation have thus converged and given top priority to this objective: to ensure the economic power of the empire. (10)

America's conflict with Communism, in this American liberal-cum-European anti-colonial view, is not ideological but a matter of power politics: a power struggle between the U.S.S.R. and the United States for the scarce resources of the under-developed world. This being the case, of course leftist Canadians can argue that opposition to Communism is not in Canada's own self-interest, as America's opposition to Communism is a purely nationalistic ploy. Following this argument, American investment in Canada is thus exploitation of the same kind as liberal Americans complained about in Asia, South America and Africa. They could see themselves as nothing more than another potential "banana republic," exploited and developed by the U.S.A. for their minerals, forests, oil and water. "the hewers of wood and the drawers of water" for American imperialists, as Eric Kierans, a former Liberal Cabinet Minister in the Trudeau administration, described it.

While liberals would hardly allow English Canadian intellectuals to extol the virtues of the British Empire as a *raison d'être* for Canada's existence, Crown loyalism – watered down to a milder sense of superiority over the rebellious Americans – could be used to promote anti-Americanism, as in Levitt's statement: "Branch-plant industry, branch-plant trade unions, branch-plant culture, and branch-plant Universities are undermining Canadian values." (11) A real source of resentment among English Canadians, stemming from starkly economic factors, is also being exploited by the liberals. Until World War II, loan investment from Britain had enabled Canadian entrepreneurs to build a native capitalistic economy, but during and after World War II these Canadian-owned companies had been bought out by large American corporations in the form of direct investment. (12) Economists, such as

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Rotstein, Laxer, Lumsden, Hardin, Watkins, have pointed out that most of the industry that had been painstakingly built up by Canadian companies was being usurped by the richer American companies. Meanwhile, divided by regional conflicts, Canada was economically powerless to resist.

Indeed, the demise of the Duplessis government and the Union Nationale in Quebec and the rise of a more liberal government in that province has encouraged Quebec intellectuals, always a potent force in spite of their relatively few numbers, to exhibit starkly anti-Anglo-Saxon sentiments, both towards the Americans and their Canadian English compatriots. French colonial losses around the world, coupled with the unpopular American adventure in their old colony of Vietnam, spurred Quebec nationalism to turn against America as well as against the English Canadians. (13)

In the matrix of anti-Americanism emanating from so many intellectual commentators, it becomes understandable how Canadian writers have been encouraged to turn to socialism as a purported means for preserving Canadian independence. While "the Swedish model of an independent industrial base and an independent defense industry was well-nigh unrealizable in Canada in the late 1960's, short of a concerted national policy to Canadianize and socialize the economy," (14) such a policy is now emerging in Canada. In almost every case, the intellectuals who have influenced the present Trudeau administration, including Trudeau himself, today represent socialism as the only method by which Canada can maintain its independence. They have been highly successful with the result that socialist policies have come to receive wide acceptance among Canadian nationalists.

Exploiting Canadian fears of American domination, Trudeau's arguments for socialism are in many ways similar to those of Mao. Mao presented socialism as a force for national unity and strength against foreign enemies, overcoming weaknesses caused by internal "contradictions" or conflicts emanating from class differences. Trudeau has proposed socialism as a force which will preserve Canadian independence against American economic aggression, and at the same time overcome the "contradictions" caused by internal ethnic and regional nationalism. Thus he says: " The true socialist will also be a humanist and a democrat and he will be quick to realize that

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Canada is very much a federal society from the sociological point of view; people from various parts of Canada hang together on a regional basis which very often supersedes the class basis." (15)

The present administration and its advisors express with clarity its convictions that the United States is a greater threat to Canada than the USSR. The fact that Canadians are encouraged to envision the Soviet Union as relatively harmless, no doubt follows from the second major pillar of this government's foreign policy: the framework by which the recognition of PRC in foreign policy would implement "national aims," that is, the framework by which Canadian internal policy would mirror the kind of socialism that Canadian policy makers imagined to exist in China under Maoism. This was a "nationalistic," democratic and humanistic society as opposed to the international Marxism theoretically propounded by the Soviets. Such a "nationalist" form of socialism was more easily accepted by Canadians who had learned to fear the USA.

Specific Relation Between Canada's Recognition of the PRC and the "National Aims" of the Trudeau Administration

We must remember that Mao's split with orthodox Marxist-Leninism was not a recent occurrence. As early as 1927 Mao had already made serious theoretical attempts to "Signify Marxism," (16) and by the time of the "rectification movement" in 1942 he had been personally successful in making his "concrete Marxism" prevail in the Chinese Communist party over the Soviet-European forms of "scientific socialism." (17)

> What distinguishes Maoist theory from other Marxist social theories is that although Maoists accept the Marxist view that 'the law of contradictions in things is the most basic law in materialistic dialectics', they do not see contradiction as stopping at the gates of Communism. Maoists push Marxist dialectical logic of contradiction to the ultimate and emphasize the 'universality of contradiction'. Maoist social theory argues that a Communist society is not immune from the law of contradiction: they advocate 'continued revolution' (*pu-tuan ko-ming*) which is nothing but contradiction

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manifested in ceaseless class struggle in any form of society." (18)

It is perhaps only in this framework of Maoism, as it was painstakingly developed and implemented, that we can understand the specific approach to socialism taken by Premier Trudeau, his party and the administration in power, and the hosts of sociologists and economists who have proliferated in the last fifteen years or so in the Canadian academic, governmental, and intellectual world. In his famous essay, "The Practise and Theory of Federalism," Trudeau conceives of federalism as a series of endless contradictions that are not merely class-based, but also ethnically and regionally based. (19) The class struggle, in the Canadian case, is reinforced by the larger conflicts of ethnic and regional nationalism. Only until each ethnic entity has come to collectively "understand socialism" will it be ready to grasp the formal resolution of federalism as a framework of socialism and equal distribution. Political party framework, parliament, the civil service, and the constitution itself become merely the playing fields upon which the specific conflicts of Canadian society can be manifested and resolved and a truly unified socialist society be built. Hershel Hardin, one of the leading Maoist theorists in Canada, carries these theories even further in his book, *A Nation Unaware: The Canadian Economic Culture*. Widely acknowledged by such liberal nationalists as Pierre Burton and Abraham Rotstein as one of the "most important books published in Canada," Hardin devotes his leading chapter to the study of "Canada as a Series of Contradictions."

"A Little Red Book"

Hardin's thinking could perhaps be characterized as "positivistic Marxism" as well as "concrete Marxism" (Maoism), since he claims that whatever works for the collective good is good. (20) Whatever changes occur in the direction of the "mass line," that is, through instructions from government controlled media, government controlled business, education etc. is good. Neither logic, expertise nor morality, is a significant factor: collectivism is good because it works: " . . . history is the product of broad social forces rather than abstract judgements about what is fair and what isn't. That,

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in any case, is how the Canadian dialectic works." (21)

For Hardin everything can be explained away by the manifestation and resolution of contradictions: government ineptitude, bad business management, geographical and historical environments. He skips as glibly through Canadian history as Samual Richardson on his way through Europe, putting into the endless categories of contradiction every piece of Canadiana from Mother MacDonald's homemade haggis to the Canadian National Railroad, as if Maoism was some witty and irrelevant joke. Characteristic of his witticisms are observations like:

> Much like Chairman Mao and any other incisive and successful ideologue in history, Trudeau seized hold of unique circumstances of the society and while borrowing small insights from elsewhere, built ideologically upon them. 'The game is played in Canada: there are two ethnic and linguistic groups; each is too strong to crush the other' is the equivalent of Mao's pragmatic realization that only with the mass of peasantry was revolution possible, or of Jefferson's perception of life and liberty.
>
> I have beside me as I write this a copy of the French language paperback edition of *Federalism and the French Canadians*. On the bottom halves of the cover and on the back cover are twenty quotations of Pierre Elliot Trudeau. Put them and a few others inside a leatherette cover, with a red maple leaf on it, and you have a little red book, full of ideological value. (22)

Taking a totally relativistic view of culture and economics, Hardin concludes that "Canadian man," in his economic culture, is qualitatively different from "American man" in his economic culture. Of course, Hardin has an explanation for "Canadian man." Because of his colonial feudal past, his enterprising spirit manifests itself in public, rather than private enterprise. Only in public enterprises such as the National Railroads, Canadian Broadcasting Corporation, Air Canada, Ontario Hydro, or any other Crown Corporation, has Canadian man shown himself both devoid of corruption and technologically – not to mention economically – efficient, but like any good propagandist, Hardin does not allow theory to be contradicted by the facts.

Hardin faithfully compares the emerging Canadian cultural

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revolution with the Chinese cultural revolution at every stage. A Canadian cultural revolution, inspired by the mass line propagated by government and public enterprise, will emerge which "as in China, will take such an indigenous form that it will be different in kind from anything experienced in other countries." (23) As for the "American-in-Canada," to use Hardin's phrase, he is, in every form, socially, economically, politically, and culturally, in Hardin's framework similar to the oppressor landlord class of Mao. In the great Canadian cultural revolution the "American-in-Canada" is to be tolerated, only if he is remolded and reformed. Of that similar enemy class in China, Mao has said:

> Such remolding of members of reactionary classes can be accomplished only by a state of the people's dictatorship under the leadership of the Communist party. When it is well done, China's major exploiting classes, the warlord class and the bureaucratic-bourgeoisie (the monopoly capitalist class) will be eliminated for good . . . (24)

Thus, we gain some sense of the theoretical framework behind the original internal national aims that the implementation of foreign policy in the Trudeau administration was to foster and nurture. In Trudeau's federalism, each ethnic group, multicultural as well as bicultural (French and English), is to be left to itself initially to discover the veracities of socialism as an ethnic collective. In a later stage, as these groups, aided by deliberate instruction from a controlled party, government and media, in an increasingly controlled economy, achieve the first stage of socialistic awareness, they will come to recognize the veracity of formal, legal centralism or federalism as the authority of state. "Americans-in-Canada" are to have no place in such a society unless they abandon capitalism, and the belief that man is naturally a creature in pursuit of gain. It is supposed to have been demonstrated by Mao's China, that under the right social and economic conditions, man is essentially capable of devoting himself selflessly to the welfare of the collective.

The vital weakness of this argument now stands starkly before the Trudeau administration: Mao's China no longer exists. It has been replaced by a China that appears to believe in economic progress and a degree of capitalist motivation that Mao and the "Gang of Four" were not prepared to accept.

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In order to teach the populace democracy as well as socialism, Trudeau believes in education from above. However, copying Maoist doctrine as applied to Canada he tolerates a temporary multiculturalism and bilingualism. The different people of Canada were to be left in their ethnic enclaves and regional groupings, at least for a while, to find democracy and socialism within their own collective and without direct political interference. The Canadian system, even in its leftist extremes, lacks the totalitarian capacities, due to the built in checks and balances of parliamentary democracy, of a totalitarian state. Furthermore, the Trudeau administration clearly lacks the popular mandate from the broad spectrum of the Canadian electorate that would enable it to implement its policies in a democratic fashion. Trudeau's personal popularity, and the popularity of his party, the Liberals, is simply due to the fact that both he and his party bridge the gulf between Upper (English) and Lower (French) Canada, thus seeming to many to give the Dominion the best chance of unitary survival in a democratic framework. This is not to say that the Trudeau administration has not made serious attempts to implement its collectivist aims within the constraints imposed on it by the existing system and the sentiments of the populace.

Domestic Results of the Implementation of Trudeau's Foreign Policy and "National Aims"

The specific changes that have occured in the political, administrative, social and cultural fabric of Canada since the implementation of the administration's "national aims" are not easy to document, since the very implementation of these aims depend in great measure on a serious restriction of information in these areas. Thus Thordarson states:

> One of Mr. Trudeau's first steps after the 1968 election was to reorganize and expand the Prime Minister's Office and the Privy Council Office. Unaffected by the budgetary freezes imposed on most government organizations, the two increased in size by forty per cent during the first year of Trudeau's administration. According to Marc LaLonde, the Prime Minister was determined to achieve two principle objectives: to enable the government to respond more effectively to the increased demands being

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> placed upon it, and to insure a greater political control over the entire government apparatus. (25)

Since, as Thordarson says, "it is a question whether Mr. Trudeau is more critical of the civil service or of Parliament," (26) the input into all administrative and parliamentary functions by the PMO and the PCO, hand-picked advisors of Trudeau, has become increasingly limited to a single small group surrounding the Prime Minister. The independence of Cabinet Ministers, long a tradition in Canadian parliament, was also changed by Trudeau, so that the PMO and the PCO could effectively guide the decisions of the Cabinet:

> Prime Minister Trudeau has also altered the way in which Cabinet Ministers participate in the formulation of policy. According to a senior civil servant, the administration has created a 'consensus' system of cabinet decision-making in which every interested minister is given the opportunity to voice his opinion even when the issue under discussion does not come under his ministry. The system means that ministers act 'less on their own' than in the past. (27)

The cabinet system has in effect been changed to a committee system with the Chairman (the Prime Minister) as the ultimate arbitrator. With little or no input from the bipartisan Committee on Foreign Affairs, due to the historical allocation of this branch of government to the civil service, the PMO and the PCO exercise effective control in this area. In addition, one of the foremost aims of the Foreign Policy Review has been to integrate all branches of administration with External Affairs, so that what was properly, say, in the realm of finance, labor, trade and commerce, or immigration, could be arbitrarily defined as an External Affairs issue by the PMO in cabinet, bypassing Parliament's influence over domestic issues. To overcome the resistance of the civil service on the matter of integration, Thordarson tells us:

> As the cabinet was under Mr. Trudeau's leadership, the contents of the general paper was formulated by External Affairs with Mr. Trudeau very much in mind. While the Policy Analysis Group was instrumental in suggesting the framework that would be used the general paper was actually assembled by one official, Geoffrey

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> S. Murray. Recalled to Ottawa from London in 1969, Mr. Murray was given the title of Special Assistant to the Under Secretary of State and the responsibility of 'co-ordinating' the policy review. He began by reading everything Mr. Trudeau had ever written or stated publically on foreign policy questions . . . . One head of a division reportedly suggested sardonically that they should request Ambassador Arthur Andrews, then negotiating with the Chinese over recognition, to find out from them how they extracted a foreign policy from the sayings of *their* chairman." (28)

While Trudeau claimed that this policy of the integration of government services, expansion of the PMO, and elimination of opposition debates would provide the public with "greater input," it has been said that "Mr. Trudeau's concept of parliamentary democracy seems to be based on a desire to interest and educate the Canadians rather than to let their opinions determine government policy." (29)

Trudeau's tactics in imposing his own line on parliament, cabinet, the people and the civil service is similar to the Maoist concept of the "mass line." Recalcitrant civil servants, if they are not actually fired or demoted, are switched to areas where they have no adequate experience. The implementation of bilingual criteria in high civil service jobs has had the same effect – high civil servants were taken out of their jobs for one year to study French in order to meet bilingual criteria. In 1975, out of 1,039 positions in the federal civil service, no less than 93% were classified as requiring bilingual qualification.

With a solid majority in his first term, Trudeau was to establish a precedent for dealing with recalcitrant Liberal MP's. Any mark of disfavour from the PM would mean being designated a backbencher, with little prestige or influence – and a far lower salary – for the duration of the elected term. With the cabinet robbed of its independence, and functioning like a socialist committee system, the caucus was placed firmly in the control of the PMO and the PCO.

The Canadian parliament, which never met high standards of efficiency due to lack of bipartisan cooperation, and the existence of only a few bipartisan committees with access to objective testimony and information, has been further

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paralyzed. Kenneth McDonald documents that until after Trudeau's first term:

> . . . the authorization of government spending had required 495 separate votes by the House of Commons. Rule changes introduced in 1969 reduced the number of votes required on spending to 136. Since each vote represented one debate, this meant that members of parliament had been deprived of two-thirds of their opportunities to control spending. But the full effect was even more far-reaching. By lumping together increasingly large and complex expenditures – between 1965 and 1975 Government spending jumped from $5.7 billion to a staggering $32 billion – the Government made it virtually impossible for individual MP's to examine them." (30)

With the loss of control over its own processes by the civil service and the virtual paralysis of parliament, the growth of public expenditure and the launching of public enterprise on a massive scale became a reality. By the mid-seventies more than 500 federal-provincial bodies regulating business existed; (31) by 1974 the government consumed 50% (including expenditures for public Crown corporations) of the National GNP, compared to 32% in the US where defense expenditures were 400% more than in the Canadian budget percentage. (32) As McDonald points out, much increased expenditure inevitably became absorbed in the never-ending spiral of justifying government control and the redistribution of wealth as absolute principles.

By 1975, 60 commercial activities were in the public enterprise sector, including the new PetroCanada which delved deeply into the plastics field. In spite of the policies of economic nationalism, little was done to provide incentives to Canadian business; in fact it could be argued, as it has by so many groups, that everything was done to disincentive Canadian owned small businesses. In retail trade 30 cents out of every dollar went to combined Federal and Provincial taxes, and it is estimated that in the redistribution of wealth through Federal and Provincial schemes and from redistribution in business incentives, 40% of the available money was lost in government administrative costs. (33) (34)

As bureaucracy expanded, it produced in each department and sub-department its own information officers and

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accountants who added very substantially to the costs of each ministry. In 1973 Government information officers grew from 676 to 747 and in the same year the Treasury Board approved a total of 1,125 positions for information and public affairs' officers, three-quarters of whom were in salary categories from $12,000 to $32,000. (35)

In the provinces the situation fared no better. In the province of Ontario for example, under the control of the Progressive Conservative party, there was a striking parallel to the situation in Ottawa. As in Ottawa, the provincial bureaucracy in Toronto reproduced itself at an astonishing rate as it expanded to manage health, education, welfare, transportation and regional planning for the provinces. In the estimate of the Ministry of Social and Community Services in Ontario for 1976 it is revealed that it cost the government $10,000 for each of 1,001 employees to distribute an average of $100 in welfare payments to recipients per year. (36)

However, as government spending allowed public enterprise and government bureaucracy to expand, all proliferating their own ubiquitous information officers, information about the system proportionately decreased. Opposition members of Parliament in Ottawa and in the Provinces were denied access to government information. Bureaucrats out of favour with the controlling mechanisms in the PMO or party organizations found themselves "besieged by their own underlings," as one official put it. In most of the provinces outside of Quebec the NDP worked hand in hand with the Progressive Conservative party, in effect dominating it and controlling it through well placed bureaucrats sympathetic with the NDP policy or the Trudeau administration. As testified in the *Globe and Mail* by the report of a young Canadian researcher with Nader's Raiders, the ordinary Canadian citizen could more easily get information about Canadian government processes in Washington than in Ottawa. To add to the restriction on Government information in 1976 the Government decided, for budgetary reasons, to close the Government Information Office bookstores throughout Canada, so that the ordinary citizen is now unable to obtain Federal Government publications unless he knows the name of the government report that he needs and writes to the appropriate ministry for it.

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Aside from the growth of public sector enterprise, the successful implementation of something approaching the "mass line " in the disoriented civil service, the introduction of collectivism has perhaps been most successful in the vital area of education. Spending on education accounted for one-fifth of all government expenditures by 1974; in absolute dollars it increased to twenty times the 1954 expenditures. In Ontario in 1975/76 the budget for the Ministry of Colleges and Universities was just over $1 billion – 40 times the 1960 figure, although millions of dollars for the educational monolith were also hidden in the estimates of other Ministries. (37) Yet for the vast majority of students graduating from Canadian Universities there will be no jobs available, ensuring that for what jobs do exist, only those whose ideology is thoroughly screened for public sector jobs will qualify. (38)

Since the advent of the Trudeau administration, many political and social science departments of the major Universities in Canada have encouraged the study of the methods, aims, and ideologies of Marxist-Leninism, mostly with a Maoist slant, although alternative Soviet style "scientific socialist" studies are occasionally available. In York University in Toronto, which boasts a special Norman Bethune College, in honor of the Canadian Communist doctor who died during the Chinese Communist revolution in China, the type of undergraduate courses now offered in the political and social science fields have been described as follows:

> Some of the course titles are revealing enough – 'The Fall and Decline of Capitalism'; 'Social Science and Social Action'; 'Philosophical Approaches to Resistance and Revolution'; 'Political Violence and Political Order' – but the topics covered a lot more. What impressed me was how often the same these occured – Marxism, Maoism, violence, resistance and revolution, social change, social action, socialism, communism . . . . The Political Science program offered 74 course, of which 26 were concerned specifically with the study of revolutionary themes. (39)

One professor of sociology at the University of Toronto, himself a noted activist for the NDP in the municipal scene, openly admits that he trains his students to be NDP organizers and requires that they engage in activist work for the NDP in order to meet the requirements of his courses. Since the

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recognition of the PRC it has become almost standard practice in the East Asian Department of the University of Toronto for students of Chinese to attend pro-Peking committee meetings organized by leftist activists, who are often their own professors!

The graduate schools of the social science departments in major Canadian Universities regularly require specific sociological research in terms of "model" research that shows how "contradictions" emerge and are "resolved" in terms of the collective good of the group they are studying. If they are unable to make this "model" work, they are instructed as to how it should (and therefore does) work in the pattern of "model" research *cum* "mass line" of pure Maoist sociology. Students who do not reveal their ability to accept these techniques are less likely to acquire their M.A. or Ph.D., which failure effectively denies them entrance to the higher echelons of the civil service or academia.

Some Conclusions

Trudeau's "voluntary collectivism," enforced by manipulation and grants, without the use of either direct totalitarian methods or the democratic mandate sometimes seen in European socialist states, while bringing an advancing degree of socialism to Canada (within the ethnic and regional enclaves) has yielded spin-offs in the form of high inflation, non-growth in Canadian business, the flight of foreign capital and decline of the Canadian dollar, increased taxation on every level of government, a decline in education and the quality of intellectual life, and substantial unemployment whose actualities are hidden only by the successful manipulations of the information officers of Statistics Canada. In the climate of this general decline in the vitality of Canadian life, ethnic and regional groups, left to themselves, tend to consolidate their native hierarchical structures and protect their own interests. As a result, ethnic and regional groups live in greater isolation from each other today than ever before in the history of Canada.

With the abrupt termination of Maoism in China, the stark realities of "voluntary collectivism" in Canada have been brought face to face with the collapse of the ideals they purported to mirror. The very concepts of the nature of man

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and society upon which the architects of Canadian foreign and domestic policy constructed their parallel ideal models of Canadian and Maoist Chinese societies have fallen into question. "Specific Marxism" or "voluntary collectivism" has proven in China to be a chimera, but a chimera which can be effectively documented to have resulted in a serious degeneration in the political, social, economic and cultural fabric of China.

The Trudeau administration extolled (and by doing so helped support in power) a Chinese government that by the most conservative estimate murdered 30 million of its own people. It singled out the most extreme elements of an extreme and aberrant tradition, the radicals of the cultural revolution, as a model for its own policies. It now has to live with a new reality — a political alliance with a mainland China that has rejected the principles which the Trudeau administration emulated. How it will do this, with success, remains to be seen.

FOOTNOTES

(1) John Holmes quoted in Thordarson, Bruce, *Trudeau and Foreign Policy: A Study in Decision-Making*, Oxford University Press, Toronto, 1972, p. 174.

(2) *Ibid.*, p. 83.

(3) *Ibid.*, p. 80.

(4) Dobell, Peter C., *Canada's Search for New Roles: Foreign Policy in the Trudeau Era*, Oxford University Press, Toronto, 1972, p. 24.

(5) *Ibid.*, p. 23.

(6) *Ibid.*, p. 27.

(7) Thordarson, Bruce, *op. cit.*, p. 109.

(8) *Ibid.*, p. 174.

(9) Julien, Claude, *America's Empire*, Random House, N.Y., 1973, p. 7.

(10) *Ibid.*, p. 23.

(11) Levitt, Kari, *Silent Surrender: The Multinational Corporation in Canada*, Macmillan of Canada, Toronto, 1970, pp. 144-5.

(12) *Ibid.*, pp. 62-3.

(13) Trudeau, Pierre E., *Federalism and the French Canadians*, Macmillan of Canada, Toronto, 1968, p. 165.

(14) Resnick, Philip, "Canadian Defense Policy" in *Close the 49th Parallel etc.*, ed. Ian Lumsden, University of Toronto Press, Toronto and Buffalo, 1975, p. 111.

(15) Trudeau, Pierre E., in *op. cit.*, pp. 125, 132.

(16) King, Ambrose Yeo-chi and Wong, Tse-sang, "Social Investigations in Communist China: The Emergence of Maoist Sociology" in

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The Journal of Social and Political Affairs, pub. by Council on American Affairs, Washington, D.C., Vol. 1, No. 3, 1976, p. 255.

(17) *Ibid.*, pp. 258-259.

(18) *Ibid.*, pp. 261-262.

(19) Trudeau, Pierre E., in *op. cit.*, especially pp. 124-133 and p. 141.

(20) Hardin, Herschel, *A Nation Unaware: The Canadian Economic Culture*, J. J. Douglas Ltd., Vancouver, 1974, p. 149.

(21) *Ibid.*, p. 24.

(22) *Ibid.*, p. 41.

(23) *Ibid.*, p. 47.

(24) Mao, Tse-tung and Lin, Piao, *Post Revolutionary Writings*, ed. K. Fan, Doubleday & Co., Inc., Garden City, N.Y. 1972, p. 33.

(25) Thordarson, Bruce, *op. cit.*, p. 86.

(26) *Ibid.*

(27) *Ibid.*, p. 90.

(28) *Ibid.*, p. 179.

(29) *Ibid.*, p. 95.

(30) McDonald, Kenneth, *Red Maple: How Canada Became the People's Republic of Canada in 1981*, BMG Publishing Ltd., Richmond Hill, Ont., 1976, pp. 66-67.

(31) *Ibid.*, p. 30.

(32) *Ibid.*, p. 33.

(33) *Ibid.*, p. 33, 50, 57.

(34) *Ibid.*, pp. 34-35.

(35) *Ibid.*, p. 65.

(36) *Estimates of the Ministry of Social and Community Services*, Queen's Printer, Toronto, 1976.

(37) McDonald, Kenneth, *op. cit.*, p. 61. See also *Estimates of the Ministry of Culture and Recreation*, Queen's Printer, Toronto, 1976.

(38) *Ibid.* McDonald notes "Between 1957 and 1975 the number graduating from Canadian post- secondary institutions jumped from over 14,000 to about 100,000. Yet employment projections from 1975 to 1980 indicated that less than a third of the jobs for which university or community college graduates would be competing required post-secondary qualifications."

(39) *Ibid.*, pp. 62-63, and for the full list of courses offered in the undergraduate programs of York University (Toronto) 1974-5 see pp. 110-117.

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A NEW LOOK AT TITO'S "NON-ALIGNMENT"

By Ljubo Sirc

President Tito's visits to Moscow, Pyongyang and Peking in the summer of 1977 caused considerable puzzlement. Most commentators stressed that the Yugoslav leader had inserted North Korea in between the Soviet Union and China to put an intermediary stage between his calls on the two rival communist centers.

The London *Sunday Telegraph* of August 14, 1977, carried a short leader saying that President Tito's visit to China was the natural climax to the career of a man who is the embodiment of the spirit of defiance toward Soviet aggression. Is it not strange, however, – if that is the spirit that took Tito to Peking – that he should have travelled there via Moscow? Would it not be a far more plausible interpretation of Tito's journeys that he is trying to patch up communist quarrels and reestablish some kind of common front. This interpretation seems nearer the truth as, on the same Sunday, the old Yugoslavia-hand, Lajos Lederer, reported in the British *Observer* that President Tito was visiting Moscow to persuade the Kremlin that they should allow him to call a conference of the world's communist parties instead of doing it themselves. According to Lederer, Tito's last wish, so to speak, is to revitalize international communism and to refurbish the image of the movement. Lederer's information is the more credible as he is reputed to be well connected in Yugoslav circles.

From Peking, it was reported that Tito contradicted Chairman Hua's warning that war was inevitable. Since the Chinese prophesy a new world conflagration will be started by the Soviet Union, the contradiction in fact conveys that President Tito was trying to persuade the Chinese leadership that the Soviets are bad, but not as bad as they sound – that patient and constructive efforts can make them see light and behave as good communists, which they fundamentally are! He may have told Hua how he himself dealt with the Soviets and won to the extent that they should consider him a comrade-in-arms rather than an underling!

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Separate Roads to Socialism

Before leaving for Asia, President Tito amiably talked to Brezhnev, who once more recognized his right to a "separate road to socialism." These assurances have by now become almost routine, something clearly deserved by the Yugoslav communists who have gone a long way to show that there is no chance for radical change in their own country, by disposing of their own "liberals" in 1971 and 1972. Tito's visit to Moscow may have also been a discreet celebration of the fortieth anniversary of his departure from service in the Komintern in 1937 to take over the purged Yugoslav communist party – an emotional and symbolic reminder of Tito's personal past.

It is hardly to be expected that the Chinese will immediately take up Tito's advice, but the process has been started.

The great honours heaped on Tito in Peking could be an indication that the new leaders of communist China are intent on mending their relations with other countries and parties. Formerly Tito was considered a renegade by the Chinese, who claimed that the Yugoslav self-management system was "group capitalism."

Tito's Defence of Communism

Any attempt by Tito to mediate between Moscow and Peking would be in keeping with his previous behaviour and ambitions. He never saw himself, as the Western media did, as the embodiment of defiance against Soviet aggression. What he wanted was to be treated as an equal among the world leaders of communism: not only because he thought that this was his right but also because his Leninist tactics were much more subtle than Khrushchev's or Brezhnev's. He succeeded under adverse conditions in converting Yugoslavia into a fall-back line for all those who were disappointed with the Soviet Union, and in this way prevented many a dissident from wandering away to liberal democracy. He cleverly used the Western powers to protect him against the Kremlin while he jockeyed for a leading position in the communist front.

Movements towards democracy have always been anathema in Tito's eyes. As soon as Hungarian insurgents in 1956 crossed the line which Tito regarded as permissible criticism in a

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communist country, that is as soon as they wanted freedom from communist dogma and the regime of the communist party, Tito turned on them. Svetozar Vukmanovic-Tempo writes in the second volume of his *Memoires*, published in Yugoslavia, p. 276, that Tito approved in advance of Khrushchev's intervention in Hungary because in his view "the uprising against a clique had turned into an uprising of the whole people against socialism." There is no question of self-determination in Tito's mind — once communism had been established in a country, the communist party has to be kept in power by its own efforts if possible, but by external communist intervention if necessary. This version of Hungarian events has also been confirmed elsewhere, *inter alia* by Staubinger in the Zagreb *Vjesnik* of April 26, 1976.

Something very similar must have happened more than ten years later, during the 1968 Prague spring, when President Tito went to Czechoslovakia, not to give support to the Czechs and Slovaks in their defiance of Soviet aggression but to lecture them on how they would betray socialism if they moved towards liberal democracy. Tito's criticism of Dubcek and his associates is now available in black on white. The leading Yugoslav ideologist, Edvard Kardelj, Tito's closest lieutenant, went on record on June 13, 1977, as stating that by trying to combine liberal democracy with socialism, the Czechoslovak democratic communists had opened the conflict between revolution and counter-revolution: "During the so-called Czechoslovak crisis, the inundation of empiricist liberal phrases made impossible the search for a really democratic and simultaneously socialist way out of the crisis," said Kardelj. "Of course, this called a third power onto the scene."

Strangely enough, Kardelj's strictures of the "liberalist" Czech and Slovak communists went almost unreported in the West, as if Western media were afraid of dispersing their illusions about Yugoslavia's real position. Maybe we shall learn some day that Tito also gave advance consent to the Soviet invasion of Czechoslovakia just as he did for the Soviet reoccupation of Hungary when socialism and communist rule were in danger.

Yugoslavia's Own Course

Tito's eagerness to realign the world communist powers is

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reinforced by the fact that such an achievement would help him to resolve his own difficult problems at home. In Yugoslavia, he has set out to create a situation in which there will be no chance for any movement away from one-party communist rule after his death. Tito hopes that the Soviet Union will protect the socialist order which he has established in Yugoslavia, and if China supports this endeavour, the better for all of them.

This problem is real. At times in the late 1950's Yugoslavia drifted away from the course set by Tito, since some of his own closest associates took the quarrel with Moscow to be a clue for more internal freedom in Yugoslavia. Tito had to permit these tendencies for a while, rather than find himself totally isolated. Djilas spoke out very early and was, therefore, easy to dispose of.

In the 1960s, matters become more serious, especially as "liberal" communism was developing an influence also in other parts of Eastern Europe. Tito let things take their course and patiently waited for an opportunity to reassert his own power with full force. That moment came after the Soviet Union had dealt with the liberal communist vanguard in Prague. In 1969, Tito installed one of his secret police as his prime minister. Then in 1971, after due preparation, he ousted the liberal communist leadership of Croatia – and those of Serbia and Slovenia were ousted the next year.

The removed liberalists (among them three former foreign ministers) were accused of having abandoned "the class positions of our foreign policy" under the influence of nationalism, liberalism and technocratism (*Komunist* March 22, 1973). President Tito himself, in an interview with *Vjesnik* on February 23, 1973, attacked some of "our people" concerned with foreign policy, for having equated the Soviet Union with the United States. In his opinion, such a stand was "illogical" and "wrong," because the Soviet Union was "a socialist country and does not wage any wars", it worked for peace in the world and supported the Vietnam people and other liberation movements.

Neither have the views which Tito and his aides hold of the United States improved with the stress of President Carter's foreign policy on human rights. The secretary of the Communist League of Yugoslavia, Stane Dolanc, said at the

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beginning of April that "mistakes were often made about what human rights were, where they began, and what dissidents were" (London *Times*, April 7, 1977) . The communist view is that human rights must not be used in opposition to the final truth of Marxist-Leninism. Yugoslavia itself held a considerable number of political prisoners ranging from Mihajlo Mihajlov to Milovan Djilas' cousin, Vitomir Djilas, and from the Croat nationalist Veselica to the Slovene Christian-Socialist Miklavčič. These were held in prison for the ideas they had expressed, in writing or even verbally, not for any act of violence. Presumably that was precisely why Tito considered them dangerous: so many of his colleagues have abandoned him because they could no longer believe that the "science" of Marxism-Leninism was the only correct one.

If they disapprove of "revisionists" at home, Tito and his friends are unlikely to approve of revisionists elsewhere. In his speech before the Central Committee of the Yugoslav Communist League of June 13, Kardelj described the dissident trend in general as "an empiricist protest without creative strength, mostly reactionary because it looks for solutions in the past rather than the future." Searching for solutions in the past means being in favor of liberal democracy, and the adjective "empiricist" describes anything arising from practical experience instead of from ideological dogma. Kardelj thinks that "administrative measures" (i.e. jail) are justifiable against dissidents, but he believes that communists should do more to advance their own "democratic" solutions. This is difficult to envisage: he requires that the result of their democracy must be the prevalence of communism.

Support for Eurocommunism

When it comes to West-European communists, different criteria are applied. For them it is correct — as far as the Yugoslav leaders are concerned — to speak in favor of pluralist liberal democracy. After all, the Yugoslav communists did the same when struggling for power: in 1943, Tito's partisan headquarters formally denied that the national-liberation army pursued the establishment of a communist system or of a dictatorship of the proletariat. These are traditional Leninist tactics. The revolution should be conducted in two stages: first a bourgeois-democratic stage — after that, the true socialist

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stage. During the first stage, the communists fight for wider human and political rights. These rights become obsolete in the second phase.

In an interview, given to the Sarajevo *Dijalog* No 1/1977, Kardelj justified Eurocommunism and its praise of pluralist democracy as a way out of the stalemate caused by the adherence of France and Italy to the NATO and the European Community. Thus no longer faced with the bourgeoisie of one country only, but with the military might of the Western block, the Western communist parties must apply different tactics, presumably deception. On the other hand, according to Kardelj, Yugoslavia itself has long since passed the stage when talk about pluralist democracy was required.

It is possible that some Eurocommunists, such as Berlinguer and Carrillo, may take their assurances of allegiance to Western democracy and human rights more seriously than Kardelj gives them credit for. Should that turn out to be so, Tito will give them short shrift and condemn them along with Moscow as traitors to communism, in the same category as Imre Nagy or Dubček. It is true that Yugoslav newspapers now fiercely defend Eurocommunists from Moscow and hail them as allies in the battle for more equality amongst communist parties; but this would fit well with stage one of the revolutionary process. If Berlinguer and Carrillo fail to work for total socialism when phase two is reached they will certainly be condemned by Titoist Yugoslavians.

Tito and the "Non-Aligned" Nations

At the stop-over in Pyongyang, on his way from Moscow to Peking, President Tito sought to confirm President Kim Il-Sung in this "non-alignment." After a visit of the Polish leader Gierek to Yugoslavia, the official communique said (*Borba* May 9, 1973) that the fight of the non-aligned against imperialism, colonialism, neo-colonialism and exploitation helped socialism as a world process.

An article published in the Yugoslav army newspaper *Narodna Armija* of May 1, 1975, details what Tito said in a discussion with Czechoslovak army representatives:

> We are formally not members of the Warsaw Pact, but if the cause of socialism, of communism, of the working class should be endangered, we shall know where to

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stand . . . we hold our aims in common with the Soviet Union.

That much for non-alignment. Non-aligned Cuba helped the Soviets to install a Marxist regime in Angola with the aid of Yugoslavia which transported materials for Angola in its own ships and gave the Soviet aircraft permission to fly over Yugoslavia on their way to Africa. If any of the non-aligned countries turn against the Soviet Union, Tito's displeasure is evident: Sadat of Egypt and Numayri of Sudan are both in disfavour in Yugoslavia.

In Korea, Yugoslav non-alignment means that the Yugoslav government is aligned with the communist North against the non-communist South. During his visit to Pyongyang, President Tito called for the withdrawal of foreign troops and gave full support to North-Korean "principles" regarding the unification of France, i.e. the communist take-over of South Korea.

The former U.S. Ambassador to Belgrade, Laurence Silberman, appears to have difficulty in understanding Tito's policy towards Korea (see L. Silberman, "Yugoslavia's 'Old' Communism," *Foreign Policy*, Spring 1977). A unification of Korea under the communist aegis, he argues, would weaken the U.S. position in the world, so that Tito's own position vis-a-vis the Soviet Union would be further shaken. But Tito's foreign policy is full of "contradictions" of this kind. The only country that in fact threatens Yugoslavia is the Soviet Union, but Tito, in his simplistic view, considers it "socialist" and, in consequence, praiseworthy and peaceful. The United States, which would have to carry the burden of defending Yugoslavia from Soviet aggression, has to be branded imperialist and aggressive. The instinct of self-preservation forces Tito to stand for non-interference, while at the same time ideology makes him support any take-over bid by a communist minority.

The instinct of self-preservation also prompts Tito to resist Soviet leadership – he was reluctant to grant them naval bases on the Dalmatian coast. Some ostentatious rebuttals of Soviet wishes are further necessary to preserve Tito's credibility in the West in his role as the champion of defiance towards the Soviet Union. Tito himself can still indulge in all these sorts of subtle tactics, but those groomed for his succession will no longer be able to resist Soviet requests according to their choice; they will be too weak and may not even wish to resist.

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Meanwhile the Yugoslav Communist League continues to work for the greater glory of communism. An example is the November 1977 meeting of the non-aligned in Sarajevo to coordinate Communist radio and television activities. There the Yugoslav spokesmen combined with the North Koreans, Vietnamese, Mocambiquenes, Angolans, Guineans and Cubans to push other third world countries towards "real non-alignment," which apparently demands that non-aligned radio and television should elevate Frantz Fanon, Che Guevara, Lenin, Tito, Ho Chi Minh and Castro to heroes of their transmissions (*Neue Zuercher Zeitung* 10.11.1977), to replace capitalist programs like Cannon and Kojak. Indeed, nothing seems to irritate the Yugoslav communists more than any move by the West – including the socialists and social democrats of the West – to expand its influence in the third world. In an interview with newspapermen in January 1978, Alexander Grličkov, the man in charge of Yugoslav relations with other communist parties, served a warning on the Socialist International not to widen its activity in Asia, Africa and Latin America.

In Titoist eyes, the West cannot and must not win. Speaking for Yugoslavia (*The Times* 27.1.1978), Grličkov warned the West that too forceful a campaign for human rights would play into the hands of "dogmatic communists." Similarly he warned that a political defeat of Eurocommunism would also strengthen the hands of "dogmatic communism." The only sensible thing the West could do, he implied, was to leave the Third World to the guidance of Yugoslavia, and to abandon the free countries of Western Europe to the control of the Eurocommunists!

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THE NEW ROLE FOR STATE COURTS AND BILLS OF RIGHTS

By Charles G. Douglas, III

> "The Burger Court makes life difficult for state judges because it challenges them to make federalism more than a cliche for judicial conservatism and states' rights more than a slogan for obstructionism." (1)

Since the founding of the Republic, there have existed concurrently, two distinct systems of courts – those of the states and that of the federal government. The roles assigned to these court systems have reflected the contemporary distribution of functions between these governments during any given period of our history. Before the Civil War individual rights, such as freedom of speech and religion, were protected against state infringement, if at all, by state bills of rights. (2) The interpretation of the provisions in state constitutions was, and remains, a matter for state courts. The substance of those interpretations was not reviewable in federal court. (3)

Federal rights, in contrast, were few. The Bill of Rights – the first ten amendments to the Constitution – applied exclusively to the federal government. (4) The principal federal rights were limitations on state power to impair obligations of contract, (5) to interfere with the free flow of interstate and foreign commerce, (6) and to obstruct the operations of the federal government. (7) The principal task of the lower federal courts, moreover, was not to safeguard even these rights. The Judiciary Act of 1789 envisioned state courts as the primary guardians of essential federal rights. (8) The lower federal courts were not granted jurisdiction to entertain claims arising under the Constitution. Rather, they were created to hear suits that arose between parties who were citizens of different states and who contested an amount that exceeded $500. (9) These suits involved claims in ordinary contract or tort rather than assertions of federal rights. In other words, lower federal courts acted as neutral referees in disputes involving substantial monetary value when the circumstances suggested that a state court might be biased in favor of its own citizen. A claim of right under the Federal Constitution could reach the federal courts only through appeal

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to the Supreme Court from the highest court of a state when the state court had held against the federal claim. (10)

During the Reconstruction period, Congress substantially altered these ante-Bellum relationships. Through the thirteenth, fourteenth and fifteenth amendments, it expanded the scope of federal rights. Congress created a cause of action for damages and injunctive relief to redress unconstitutional actions by state officials. Federal courts were empowered to try such actions without regard to the amount in controversy. (11) It was the clear intention of Congress that federal courts assume the primary responsibility for vindicating federal rights. (12) Nevertheless, Congress had no intention of displacing state bills of rights or state court enforcement of either state or federally created rights. State courts continued to actively play such a role into the Twentieth Century.

With the gradual incorporation of the Bill of Rights into the due process clause of the fourteenth amendment, state courts and constitutions assumed a clearly secondary role in the protection of civil liberties and criminal rights. Because rights protected through "incorporation" were federal, and federal courts generally manifested greater sympathy for them than state forums, litigants came to prefer advancing claims under the Federal Constitution in federal court, leaving state constitutions and courts out of the process. The Warren Court facilitated this development by greatly expanding the effectiveness of federal rights and lowering jurisdictional access barriers to federal courts. (13) Once the general trend to "think federal" became sufficiently established, even a state court would almost automatically rely on the Federal Constitution and ignore a parallel provision in its own constitution.

Recent retrenchments of federal jurisdiction by the Burger Court require federal courts to show greater deference to the role of state courts in constitutional adjudication than has prevailed generally during the last twenty years. (14) At long last the Supreme Court has again recognized the federal nature of our Republic. To those who, like the author, serve on state appellate courts, this development offers two challenges: to assume greater responsibility for the protection of federal constitutional rights; and to dust off their state constitutions and set institutional and attitudinal changes in motion to creatively protect the rights of their citizens from

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increasingly meddlesome and burgeoning bureaucracies and governmental agencies.

Constitutional Limits of Power — The State and Federal Background

Increasingly, a "nation that brought a unique concept of federalism and divided sovereignty between nation and states has changed into one in which all governmental authority has been concentrated in a central authority." (15) Moreover, under the doctrine of judicial review established in the 1803 decision of *Marbury v. Madison*, (16) which invests final authority to interpret federal law and the Constitution in the Supreme Court, that concentration has itself shifted a large share of the responsibility for national policy-making to that Court. An understanding of the danger that this shift represents requires a brief review of the form of government intended by the Framers.

The Framers were concerned with many problems, but overhanging them all was the problem of limiting the historical tendency of central governments to enhance their powers at the expense of liberty. Jefferson expressed this philosophy in an 1816 letter.

> What has destroyed the liberty and the rights of man in every government which has ever existed under the sun? The generalizing and concentrating of all cares and powers into one body, no matter whether of the autocrats of Russia or France, or of the aristocrats of a Venetian Senate. (17)

The solution adopted at the Constitutional Convention was to divide sovereignty between the new national and existing state governments. Although the notion of divided sovereignty was fundamental to the proposed form of government, the lack of a provision in the new Consitution expressly stating that the powers of the national government would be limited to those specifically delegated left the document vulnerable to attack by its opponents. Thus when the Bill of Rights was framed, this limitation was expressly embodied in the tenth amendment. Those "powers" not delegated to the national government "by the Constiution" nor prohibited by it to the states were "reserved to the States."

According to James Kilpatrick, the tenth amendment

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expressed the underlying philosophy of the Constitution. The people meant to restrain their new government. "They knew, as Jefferson remarked, that 'the natural progress of things is for liberty to yield and government to gain ground' and they hoped to create a government that would gain as little ground as possible." (18) For the Framers, then, government was a necessary evil – a means to an end rather than an end in itself.

For the first seventy-five years of its existence, the Constitution by its terms applied primarily to federal practices and the actions of federal authorities. The only specific prohibitions on the states were listed in one short section of the document, article I, section 10. Otherwise, state legislation or decisions were forbidden only if in conflict with federal statutes passed under one of the specifically delegated powers or with the prerogatives of the Executive Branch, such as the conduct of foreign affairs.

The states were the principals in the framing of the Constitution. Indeed, Hamilton feared that the federal government was not strong enough. He feared that it would always be easier "for the State governments to encroach upon the national authorities, than for the national government to encroach upon the State authorities." (19) The clear trend, however, has been toward centralization of power. Especially since the 1930's, the judiciary has discovered that the power for almost anything in Congress wishes to accomplish is "implied" in the folds of the Constitution. This development has been combined with a massive expansion of federal judicial power under the due process clause of the fourteenth amendment to infringe on many of the powers that the states reserved to themselves.

Did the Fourteenth Amendment Change the Nature of Federalism?

Incorporation of the Bill of Rights

Before the adoption of the fourteenth amendment, Chief Justice John Marshall had written in a unanimous opinion that the Bill of Rights did not apply to the states. (20) But with the adoption of the fourteenth amendment, the Supreme Court had to face the applicability of the first ten amendments to the states once again. In the *Slaughter House Cases*, (21) the

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Court held that the purpose of the fourteenth amendment was not to extend the protection of the Bill of Rights against state action. To hold otherwise, wrote Justice Miller for the Court, "would constitute this court a perpetual censor upon all legislation of the States on the civil rights of their own citizens . . . ." He expressed the hope that the Court would always carefully maintain the balance between state and federal power. (22) Justice Bradley in dissent, disagreed with the majority's interpretation of the fourteenth amendment. He took issue with the "great fears" of the majority that to impose the Bill of Rights on the states would "lead the Federal courts to draw to their cognizance the supervision of State tribunals on every subject of judicial inquiry . . . ." (23)

Under this interpretation of the fourteenth amendment, states were given a great deal of latitude to experiment with new procedures. Specifically in the area of criminal rights, the Supreme Court allowed state courts to administer divergent rules unless a gross abuse of state power resulted in a conviction that violated "the very essence of a scheme of ordered liberty." (24) For example, when a state tried a criminal defendant under circumstances of threatened mob violence, the Court held that the defendant had been denied due process of law. (25) When a prosecutor knowingly made use of perjured testimony, the Court ruled that the defendant had been denied a fair trial. (26) The introduction of a confession that had been obtained by physical brutality rendered a conviction void as a matter of fourteenth amendment due process. (27)

Among the pressures on the Court to adopt a more stringent approach to due process was the failure of some state judges to apply their own bills of rights. A graphic illustration is the case of the famous "Scottsboro Boys." Nine black youths were accused of raping two white women and were put on trial in Alabama. They were protected from mob lynching only by National Guard troops. The trial was a mere formality; after a perfunctory defense, all but one of the defendants were sentenced to death. On appeal, the Court reversed the convictions, holding that due process required a right to counsel in capital cases in which the defendants were unable to competently defend themselves. (28)

Although the Court refused to incorporate the specific provisions of the Bill of Rights into the due process clause,

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it did develop several tests for reviewing convictions under that clause. In the Scottsboro case, *Powell v. Alabama*, (29) Justice Sutherland for the majority developed the "Fair Trial Rule."

> As applied to a criminal trial, denial of due process is the failure to observe that fundamental fairness essential to the very concept of justice. In order to declare a denial of it we must find that the absence of that fairness fatally infected the trial; the acts complained of must be of such quality as necessarily prevents a fair trial. (30)

Due process had to be accorded in fact as well as form. A second test required the justices to view the "totality of the circumstances" to see if the conviction was "shocking to the universal sense of justice." (31) Finally, Justice Frankfurter suggested that the fourteenth amendment required "alert deference" to state court judgments, which would be overruled only if they shocked or offended "the notions of justice of English-speaking peoples." (32)

A highlight of the debate over the extent, if any, to which the fourteenth amendment incorporates the Bill of Rights occurred in *Adamson v. California*. (33) The defendant, Adamson, was convicted of first-degree murder. He challenged his conviction on the ground that state law permitted the prosecutor to comment on his failure to take the stand at his trial. Justice Black, who dissented from the affirmance of the conviction, argued that the history of the fourteenth amendment's adoption required the Court to incorporate the whole Bill of Rights *in toto* into the due process clause. By this approach, Justice Black believed that the due process clause could be given a certain, well-defined meaning. Failure to incorporate the specific provisions of the Bill of Rights or the expansion of the due process clause to include more restrictions than were in the Bill of Rights would give the Court boundless power to expand or contract constitutional standards according to transient perceptions of fair play or substantial justice. (34)

Justice Frankfurter, who concurred in the affirmance, expressed his view in a separate opinion. He disagreed with Justice Black's reading of history. If the due process clause had been intended to incorporate the Bill of Rights, "it is a strange way of saying it." A selective incorporation of the Bill of Rights would require a subjective determination as to which rights

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should be incorporated. Although Justice Frankfurter did not address himself to the point, even if the Bill of Rights were incorporated into the due process clause *in haec verba*, the justices' subjective judgments would define the meanings of those "specific" provisions. Furthermore, Frankfurter feared that to incorporate the Bill of Rights intact into the due process clause would imprison state courts in Eighteenth Century sanctioned legal forms. (35)

No solution to the theoretical dilemma of the meaning of the due process clause has yet been attained. Some provisions of the Bill of Rights are now applicable to the states through the due process clause; (36) others are inapplicable. (37) Since 1961, most of the criminal rights provisions of the fourth, fifth, sixth and eighth amendments have been incorporated, but those "specific" provisions do not always limit the powers of the states in the same manner or to the same extent as those of the federal government. (38) This development is clearly at variance with the principal virtue of incorporation – the certainty of the meaning of constitutional rights.

Practical Weaknesses of the Overfederalization of Rights

Numerical Case Load Problem.

Thirty years ago, a supporter of the incorporation theory wrote that if the "Fair Trial Rule" were not discarded, it would place an intolerable burden on the Court's case load. He pointed to statistics showing a dramatic increase in the number of state habeas corpus petitions:

1930 Term	Prisoner Petitions:	22,	Granted:	3
1940 Term	Prisoner Petitions:	120,	Granted:	19
1946 Term	Prisoner Petitions:	528,	Granted:	8

Forty percent of the 1356 cases filed with the Supreme Court in 1946 were state convict petitions. (39) "The deluge has not really begun, and there is nothing the Court can do to check it (so long as it adheres to the Fair Trial Rule)." (40)

The deluge was signalled, however, by rejection of that rule. After the incorporation of the Bill of Rights as a code of criminal procedure and *Fay v. Noia*, (41) lowering procedural barriers for habeas corpus petitions, the figures reveal a phenomenal development :

State Convict Petitions in United States District Court (42)

1945 – 536	1962 – 1232
1950 – 560	1967 – 7364

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1955 — 660	1968 — 8301
1960 — 872	1970 — 12,000 (Approx.)

Of 12,379 appeals from federal district court judgements in 1972, over fifty-three percent — 6601 — were taken by prisoners. Those 6601 appeals were statistically about forty percent of the 16,267 prisoner petitions of all kinds filed in the federal district courts that year. (43)

In its 1975 term, the Supreme Court wrote 156 opinions; 3713 cases were marked "appeal dismissed" or "certiorari denied." (44) The government prevailed in seventy-five percent of those cases decided with opinion involving appeal from state criminal convictions. (45) The sheer volume of cases resulted in less than six percent of petitions for a certiorari being granted. (46) This overload of filings has prompted calls for a National Court of Appeals. (47)

Rather than another layer of courts, what is needed is a recognition that the states have a role to play in the administration of justice. There are about 400 federal district judges as compared to an estimated 4000 states judges of general jurisdiction and about 17,000 judges of limited jurisdiction. In Fulton County, Georgia, which includes Atlanta, alone there were almost as many cases in 1967 as were filed in federal district courses nationwide in 1968. (48) The federal district court criminal case load rose to 47,043 in 1972, yet the Commonwealth of Pennsylvania alone processed more than 61,055 indictments. (49) Judge Aldisert of the Third Circuit Court of Appeals summarizes well, "State trial judges from the . . . eight [major American] cities, and their appellate brethren, process more constitutional issues every *day* than the entire federal judiciary does in a *week*." (50)

Trivialization of Rights.

Some judges have recognized that with the total federalization of rights would come a trivialization of the Bill of Rights to minutia uncontemplated by the statesmen of 1789 and 1866. Judge Macklin Fleming of the California Court of Appeals describes the trivialization process as one caused "when the language of fundamental constitutional rights begin to be routinely used . . . to justify judicial regulation of administrative decisions of the smallest moment . . . ." That process results in poor judicial decisions obscuring good decisions from public notice. The consequence "is to give the entire body of

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constitutional law a somewhat inconsequential and frivolous cast." (51) Judge Aldisert has complained that federal judges now "act as receiving clerks, processing every real or imagined complaint a state prisoner has against his keepers." (52) One example is a suit alleging that a guard denied a prisoner due process in taking from him three dollars worth of cigarettes. (53) Another weighty federal case involved a claim to repair a toilet that had been out of order for three days. Before the suit was heard two months later, the malfunction had been righted. (54) Even the First Circuit expressed the hope that such matters as the eviction of "Ratsus" and two other cats from the New Hampshire State Prison, an alleged violation of 42 U.S.C. section 1983, could be handled internally. (55) Having to devote time to such trivial matters as these, the federal courts lose some capability to review substantial claims of right.

Problem of Uniformity's Stifling Experimentation.

Judge Learned Hand contended that when the text of the Constitution read in its historical context does not clearly prohibit an act, for the Court to "interpret" the document to do so improperly substitutes the will of five out of nine men for that of the people acting through their elected representatives. (56) The current Court apparently understands its function differently. The eighth amendment, for instance, "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society," rather than be regarded as a static concept. (57) Although the Court does not entirely ignore the historical context from which the words derive, it relies heavily on Chief Justice Marshall's dictum that "we must never forget that it is *a constitution* we are expounding." (58)

The expansive interpretation of constitutional rights presaged in this dictum ignores the intent of the Framers that there be a duality of government, overlapping, yet with distinct areas of control. As Justice Brandeis observed, it is "one of the happy incidents of that system that a single courageous State may . . . serve as a laboratory . . . ." (59) In Judge Friendly's view, that statement applies to fundamental constitutional guarantees because sophisticated judges realize that the bare words of the Bill of Rights do not provide all the answers. But Brandeis' laboratories have now been superseded by the

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conversion of the fundamental principles of the Bill of Rights into "a detailed code of criminal procedure, allowing no room whatever for reasonable difference of judgment or play in the joints." (60)

The pendulum-swings of the law from the pre-1937 Court to the Roosevelt Court, the Warren Court, and finally the Burger Court might alternatively please liberals or conservatives, but the effects of this instability are deleterious to the rule of law. In general, law becomes perceived as "a series of judge-made rules imposed by a temporarily dominant majority of judicial officeholders . . . ." (61) The new rule can count on little public respect when so viewed. The instability in the rules of law also undermine confidence in the central referee – the Supreme Court:

> It is quite apparent that the reason for this periodic loss of public confidence in the Supreme Court lies in the court's willingness to use its absolute power to promote its own ideas of public policy and do this in a manner that emphasizes naked authority to the neglect or reasoned persuasion. A court which declares that it is bound neither by custom, nor precedent, nor statute, nor the specific language of the Constitution itself, is a court that has asserted its right to disregard the law. A court free to disregard the law is an instrument of absolute power, and, to that extent does it become a lawless court. Lord Acton's maxim that all power tends to corrupt and absolute power corrupts absolutely is one that has particular application to the Supreme Court. (62)

These pendulum-swings also stifle state court initiative and lead to nationwide judicial conformity. Control of the states through the compulsion of the fourteenth amendment seduces state judges into producing decisions that increasingly mirror those of federal courts. In the process of following the latest federal decision, state judges have allowed their bills of rights to atrophy. Intellectual challenge declines because most law clerks and judges will find it easier to look to federal decisions first. Thus the instability of rules of law transmitted to the states through the medium of the fourteenth amendment is bad policy for a federal system.

The problem of smothering uniformity has become especially acute in the area of search and seizure, a fourth amendment

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concern. In *Mapp v. Ohio*, (63) a 1961 decision, the Supreme Court held that the rule excluding all evidence unconstitutionally seized from admission at trial in federal court applied to the states through the fourteenth amendment. This exclusionary rule has failed as a means for regulation of police conduct because the Court's definitions of what constitutes an unconstitutional seizure are vague, changing and obscure. The policeman is penalized for failing to conduct a search according to rules that few attorneys could readily articulate in a squad car at 3 A.M. Moreover, the policeman who has violated an accused's constitutional right often never learns that the evidence he seized has been excluded. Thus the didactic effect of the rule is minimal. (64) Nonetheless, the incorporation of this rule through the fourteenth amendment has effectively prevented states from experimenting with alternatives that could effectively deter police violations of constitutional rights without entailing the risk of the guilty going unpunished because the most damning evidence against them cannot be presented at trial. As Chief Justice Berger recently said:

> Legislatures are unlikely to create statutory alternatives, or impose direct sanctions on errant police officers or on the public treasury by way of tort actions, so long as persons who commit serious crimes continue to reap the enormous and undeserved benefits of the exclusionary rule . . . . The unhappy result . . . is that alternatives will inevitably be stymied . . . . (65)

One of the most insidious results of this basic disregard of federalism is the rapid withering of the development of state decisions based on state constitutional provisions. My own state of New Hampshire has a magnificent constitution, which protects all those rights found in the Bill of Rights and several others. All too frequently, its provisions are lost, forgotten, or ignored, as every case seems to be a "fifth amendment" or "first amendment" case. I prefer to think of them as part first, article 15 or part first article 22 cases respectively.

Constitutional guarantees were not meant to be an ever-changing but uniformly mandated code of criminal procedure. Yet as long as both federal and state courts must operate under identical federalized ground rules, due to the incorporation theory, the Supreme Court inevitably becomes the arbiter of

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all tests and rules. State courts are reduced to subunits of the local federal court.

The Supreme Court Retrenches

Recognizing the policy problems, the increase in federal caseload and the growing resistance of state judges to the destruction of the federal system, (66) the Burger Court has sought to accommodate itself to the needs of federalism. Most of this accommodation has occurred in the procedural area. Federal courts now must dismiss anticipatory actions under 42 U.S.C. section 1983 when the plaintiff in that action is under prosecution in state court, charged with an offense under the statute he challenges in federal court. (67) The underlying rationale of this abstention doctrine is federalism. (68) Later, the Court extended this restraint to cases in which there is a concurrent state civil proceeding akin to a criminal prosecution. (69) The Court has discouraged injunctive relief against the administration of state laws when federal judges would be required to monitor or oversee various governmental areas. (70) In all these areas, the Court has stressed that state judges are bound by the Federal Constitution and must be assumed to "be faithful to their constitutional responsibilities." (71)

The Court's accommodation of federalism also goes beyond procedural considerations. In a potentially far-reaching decision, the Court recently held that even under an affirmative grant of power, Congress cannot exercise its authority to impair the sovereignty of the states. (72) In the abrasive area of federal habeas corpus, earlier cases that permit a prisoner to relitigate constitutional claims in federal court after receiving plenary consideration in the state courts are beginning to be restricted. In *Stone v. Powell*, (73) the Court held that if a state has provided an opportunity for a "full and fair" consideration of a fourth amendment claim, that claim may not be relitigated before a federal judge.

The trend, then, is clearly towards a more flexible federalism, even though the cases have been criticized by currently sitting justices. Groups such as the American Civil Liberties Union are beginning to direct their attentions elsewhere as their "win" rate declines in Washington. (74)

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The Role of State Constitutions

The reality is that for "most of this nation's history, the protection of . . . rights was a state responsibility." (75) Yet there is "no treatise on state constitutional law, nor one on the subject of civil liberties under state constitutions." (76) This illustrates the second-class role to which the states and their basic documents have been relegated in modern times. This is true despite the fact that every state has a constitution that contains a bill of rights at least as broad as that in the federal document. (77) Some of these bills of rights pre-dated the Federal Constitution and contain rights unknown to that charter. (78)

The problem now is to breathe new life into the moribund state constitutions and to reassert the nature of our federal government. Because the fourteenth amendment is the individual's first line of defense against state action, state bills of rights will have to do something more than mimick "the federal interpretation of the Federal Bill of Rights" if they are to have any purpose. "[O]nly by venturing beyond . . . established patterns [can] the states . . . make a genuine contribution" to constitutional adjudication. (79)

This does not mean that state courts must improve upon the common denominator fourteenth amendment minimum standard in very situation. It does mean that they "are under an obligation to make an independent determination" (80) of rights, liberties and obligations for their states. When faced with identical language in state and federal constitutions, there is no requirement that state judges construe the state constitution's language in the identical manner that their federal brethren would construe the Federal Constitution.

One advantage to be derived from employing the state constitution is that a decision resting on adequate nonfederal grounds is insulated from Supreme Court review. (81) The test of adequacy requires that the nonfederal ground be "tenable," be independent of the federal claims or broad enough to encompass it, and not be a pretext to avoid consideration of that claim. The application of the independent state ground test is summarized by Professor Wilkes:

> A state judgment resting solely on state law may nevertheless be reviewable if a claimed federal right was unjustifiably denied. A state judgment resting partly on state

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> law and partly on federal law is likewise reviewable if the federal issue is wrongly decided and the state ground is not independently adequate to support the judgment.
>
> Important corollaries follow this brief synopsis. First, if a state court were to grant an accused a right based solely on state law that is *broader* than any right guaranteed under federal law, the case cannot be reviewed by the Supreme Court. This is so regardless of whether the accused claimed the right on the basis of federal law. Even though a right may be claimed under federal law, granting the claim on the basis of state law could not work a denial of the federal right, and the state ground would not raise a separate federal question of "adequacy." Second, if the state court granted the right on the basis of both state and federal law, even a mistaken interpretation of federal law would not affect the otherwise independent and adequate state ground supporting the decision. (82)

Today most state courts spend all the hard critical evaluation on consideration of the fourteenth amendment; (83) and the state bill of rights, if reached at all, is thrown in as an afterthought. Professor Hans A. Linde argues that this process should be reversed. According to his analysis, whether a state court has violated the fourteenth amendment depends on the final outcome of the state court process. Many low-level errors are corrected within the state court system itself.

> When a state court holds that a given state law is invalid and must be set aside under the state constitution, then the state is not violating the fourteenth amendment. . . . By the action of the state court under the state constitution, the state has accorded the claimant the due process and equal protection commanded by the fourteenth amendment, not denied it. While a defendant may have both a state and a federal constitutional claim to present, legally these are not cumulative but alternative . . . . (84)

This viewpoint is consistent with the principle of resolving a controversy at the lowest possible level. "Just as courts traditionally avoid, by statutory construction and like techniques, the necessity of invalidating legislation on constitutional grounds, disposition upon state constitutional

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grounds avoids unnecessary federal constitutional adjudication." (85) The result is diversity of law, the principal distinction between a federal system like ours or that of Canada from a national system like that of England.

Improving the Image of State Courts

The growth in the domination of the law by federal courts has generated a loss of confidence in all courts, but especially those of the states. To the academicians and self-appointed elite, state courts are seen as "inferior," less competent, or less sensitive. (86) A federal judge has assessed the problem:

> First, there is the influence of academia, exercised by the law professors and their captive audiences, the law students. A basic notion of modern legal academia is that the federal judiciary is a unique institution: That somehow the law is different there, or the proceedings more conducive to reasoned disposition; that there is no politics in the appointment of federal judges; that federal judges come into their robes by a process akin to immaculate conception; that all federal judges are meritorious fountainheads of wisdom, whereas their state court counterparts are political hacks who happened to stump for a gubernatorial winner. (87)

Law clerks who work for state judges have been taught or are familiar with only federal cases. Thus they bring a federal bias to the various state courts in which they work after graduation from "federally" oriented law schools. The media's emphasis on the shortcomings of the state judiciaries is also partly to blame. (88)

If this reliance on federal precedent is to be altered, it is up to the appointed and elected state judges to affirmatively reassert their role in the federal system. This reassertion demands active study and planning to improve state judicial systems, discussions with law clerks on the need to research and use state constitutions first, and taking the time to decide deliberately and intellectually what is wanted in light of the state constitutions. State alternatives to the exclusionary rule, for example, should be developed to speed its abandonment as a nationwide principle by the federal courts. Rules and procedures in state courts must be updated to reflect modern demands for resolution of the massive amount of

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cases docketed. Under a truly "activist" federalism, the states will head in different directions in various areas of the law. This diversity best typifies America and its dual legal system, contributing to the well-being of all.

Conclusion

A prominent New Hampshire attorney ably summarizes the problems that I have been addressing:

> One of the brilliant facets of the American system is that a well-stated, clearly defined and reasonable demand will, at some point obtain a positive response from some branch of government or other, at some level or other. When one branch or level of government consistently fails to "supply" responsiveness then the demand will look to another supplier, just as it does in a free economic market.
>
> I think that can be said to have happened in the field of protection of individual liberties. The federal courts have indeed seemed to have become the major suppliers of protection. I think this has come about primarily because for all too long, state courts were simply not marketing the item, even though they had ample supplies in stock, as embodied in their state constitutions. More recently the state courts have begun to enter the market on a limited basis, but have found themselves in the remarkable position of marketing only the federal brand. Their own stock in trade was so far back in the storeroom that they had forgotten it was there. (89)

State judges should use initiative in looking up provisions of the respective state constitutions, construing and applying them to the facts at hand and only then turning to the federal cases. To do so will get our product back on the market and lessen our role as mere distributors of the federal product. It is easier for law clerks, academics and judges to palm off the federal product as if this were a monopoly market with direction from corporate headquarters in Washington. By dusting off our state constitutions judges can be "activist" in the best sense of the word and breathe life into the fifty documents. If we let them atrophy in our respective states, we will not only have failed to live up to our oaths to defend those constitutions but will have helped to destroy federalism as well.

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FOOTNOTES

(1) Project Report: Toward an Activist Role for State Bills of Rights, 8 Harv. C.R.-C.L. L. Rev. 271,175 (1973).

(2) New Hampshire, like most states, provided wide-ranging protection for civil liberties in their post-Revolutionary constitutions. *See* N.H. Const. pt. I.

(3) *See, e.g.*, Murdock v. City of Memphis, 87 U.S. (20 Wall.) 590 (1875).

(4) Barron v. Mayor of Baltimore, 32 U.S. (7 Pet.) 243 (1833).

(5) U.S. Const. art. 1, § 10, cl. 1. *See generally* Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518 (1819).

(6) *See* Brown v. Maryland, 25 U.S. (12 Wheat.) 419 (1827); Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824).

(7) *See* McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316 (1819).

(8) Zwickler v. Koota, 389 U.S. 241, 245 (1967); Shaman & Turkington, *Huffman v. Pursue, Ltd.*: The Federal Courthouse Door Closes Further, 56 B.U.L. Rev. 907, 916 (1976).

(9) Judiciary Act of 1789, ch. 20, § 11, 1 Stat. 78. This grant of power is known among lawyers as "diversity jurisdiction."

(10) *Id.* § 25, 1 Stat. 85; Shaman & Turkington, *supra* note 8, at 923-24.

(11) Act of Apr. 20, 1871, ch. 22, § 1, 17 Stat. 13. The substantive cause of action is now codified as 42 U.S.C. § 1983 (1976), and is generally called a "1983 action." The jurisdictional provision was separated from the substantive action and is now codified as 28 U.S.C. § 1343(3) (1976).

(12) Mitchum V. Foster, 407 U.S. 225, 240-42 (1972); Monroe v. Pape, 365 U.S. 167, 174-80 (1961); Shaman & Turkington, *supra* note 8, at 917.

(13) Shaman & Turkington, *supra* note 8, at 907.

(14) A brief description of the details of the Burger Court's cut back on federal jurisdiction is presented in *id.* at 908, 910-15.

(15) Kurland, *Government by Judiciary*, 20 Mod. Age 358, 362 (1976).

(16) 5 U.S. (1 Cranch) 137 (1803).

(17) Letter from Thomas Jefferson to Joseph C. Cabell (1816), *excerpted in* J. Kilpatrick, *The Case for "States' Rights,"* in a Nation of States, 88 (R. Goldwin ed. 1966).

(18) J. Kilpatrick, *supra* note 17, at 95.

(19) The Federalist No. 17 (A. Hamilton), at 105 (R. Macy ed. 1945).

(20) Barron v. Mayor of Baltimore, 32 U.S. (7 Pet.) 243 (1833).

(21) 83 U.S. (16 Wall.) 36 (1873).

(22) *Id.* at 78, 82.

(23) *Id.* at 123 (Bradley, J., dissenting).

(24) Palko v. Connecticut, 302 U.S. 319, 325 (1937), *overruled*, Benton v. Maryland, 395 U.S. 784 (1969); *see* Maxwell v. Dow, 176 U.S. 581 (1900); Hurtado v. California, 110 U.S. 516 (1884).

(25) Moore v. Dempsey, 261 U.S. 86 (1923). *But see* Frank v.

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Mangum, 237 U.S. 309 (1915).

(26) Mooney v. Holohan, 294 U.S. 103 (1935).

(27) Brown v. Mississippi, 297 U.S. 278 (1936).

(28) Powell v. Alabama, 287 U.S. 45 (1932).

(29) 287 U.S. at 45.

(30) Lisenba v. California, 314 U.S. 219, 236 (1941).

(31) Betts v. Brady, 316 U.S. 455, 462 (1942), *overruled*, Gideon v. Wainwright, 372 U.S. 335 (1963).

(32) Malinski v. New York, 324 U.S. 401, 416-17 (1945) (opinion of Frankfurter, J.); Green, *The Bill of Rights, the Fourteenth Amendment and the Supreme Court*, 46 Mich. L. Rev. 869, 886 (1948).

(33) 332 U.S. 46 (1947).

(34) *Id.* at 75, 82-92 (Black, J. dissenting).

(35) *Id.* at 63-68 (Frankfurter, J., concurring).

(36) *See, e.g.*, Duncan v. Louisiana, 391 U.S. 145 (1968) (jury trial in criminal cases); Gideon v. Wainwright, 372 U.S. 335 (1963) (right to counsel); Mapp v. Ohio, 367 U.S. 643 (1961) (fourth amendment exclusionary rule).

(37) *See* Cases v. United States, 131 F .2d 916 (1st Cir. 1942), *cert. denied*, 319 U.S. 770 (1943) (second amendment); Annot., 18 L. Ed. 2d 1388, 1410-11 (1968) (seventh amendment) (listing cases).

(38) *See* Apodaca v. Oregon, 406 U.S. 404 (1972) (nonunanimous jury verdict in state trials); Williams v. Florida, 399 U.S. 78 (1970) (six-man jury in state trials).

(39) Green, *supra* note 32, at 896.

(40) *Id.* at 897.

(41) 372 U.S. 391 (1963).

(42) Bell, *State Courts and the Federal System*, 21 Vand. L. Rev. 949, 949 n. 4, 951 n. 12, 955 n. 34 (1968); Burger, *The State of the Judiciary*, 56 A.B.A.J. 929, 930 (1970).

(43) Aldisert, *Judicial Expansion of Federal Jurisdiction: A Federal Judge's Thoughts on Section 1983, Comity and the Federal Caseload*, 1973 L. & Soc. Ord. 557, n. 44, 567.

(44) *The Supreme Court, 1975 Term*, 90 Harv. L. Rev. 56, 279 (1976).

(45) *Id.* at 280-82.

(46) E. Deutsch, *The National Court of Appeals*, 59 Jud. 180 (1975).

(47) *E.g., id.* at 164-83.

(48) Bell, *supra* note 42, at 949.

(49) Aldisert, *supra* note 43, at 572.

(50) *Id.*

(51) M. Fleming, The Price of Perfect Justice. 129 (1974).

(52) Aldisert, *supra* note 43, at 574.

(53) *See id.* at 569.

(54) Sparks v. Fuller, 506 F. 2d 1238 (1st Cir. 1974) (per curiam).

(55) *Id.*

(56) L. Hand, The Bill of Rights, 3, 34-35, 55, 65 (1958).

(57) Gregg v. Georgia, 428 U.S. 153, 182 (1976); Trop v. Dulles, 356 U.S. 86, 100-01 (1958).

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(58) McCulloch v. Maryland, 17 U.S. (4 Wheat.) at 407.
(59) New State Ice Co. v. Liebmann, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting).
(60) Friendly, *The Bill of Rights as a Code of Criminal Procedure*, 53 Cal. L. Rev. 929, 954-55 (1965).
(61) M. Fleming, *supra* note 51, at 160.
(62) *Id.* at 160-61.
(63) 367 U.S. 643 (1961).
(64) Bivens v. Six Unknown Named Federal Agents, 403 U.S. 388, 416-18 (1971) (Burger, C.J., dissenting).
(65) Stone v. Powell, 428 U.S. 465, 500-01 (1976) (Burger, C. J., concurring).
(66) *See* Wade Oil Co. v. Rowes, 44 U.S.L.W. 2146 (N.Y. City Sup. Ct. 1975); State v. Phillips, 540 P. 2d 936 (Utah 1975).
(67) Younger v. Harris, 401 U.S. 37 (1971).
(68) Donahue, *The Abstention Doctrine and Equitable Restraint: Old and New Perceptions of Federalism*, 9 Suffolk U.L. Rev. 34, 48 (1974).
(69) Huffman v. Pursue, Ltd., 420 U.S. 592 (1975).
(70) Rizzo v. Goode, 423 U.S. 592 (1975); O'Shea v. Littleton, 414 U.S. 488 (1974).
(71) Huffman v. Pursue, Ltd., 420 U.S. at 611.
(72) National League of Cities v. Usery, 426 U.S. 833 (1976). *But see* Note, *At Federalism's Crossroads: National League of Cities v. Usery*. 57 B.U.L. Rev. 178 (1977) (suggesting *Usery* will prove unworkable and not be applied outside its facts).
(73) 428 U.S. 465 (1976).
(74) Mathews, *Law Strategy: Don't take it to High Court*, Los Angeles Times, May 10, 1976.
(75) Note, *State Constitutional Guarantees as Adequate State Ground*, 13 Am. Crim. L. Rev. 737 (1976).
(76) Project Report, *supra* note 1, at 320.
(77) R. Dishman, *State Constitutions: The Shape of the Document*, 6 (Nat. Municipal League, 1968).
(78) These include the right to revolution, N.H. Const. pt. I, art. 10, and freedom from monopolies, id. pt. II, art. 83.
(79) Project Report, *supra* note 1, at 287.
(80) *Id.* at 285.
(81) *E.g.*, Murdock v. City of Memphis, 87 U.S. (20 Wall.) 590 (1875).
(82) Wilkes, *The New Federalism in Criminal Procedure: State Court Evasion of the Burger Court*, 62 Ky. L.J. 421, 430-31 (1974).
(83) Project Report, *supra* note 1, at 287.
(84) Linde, *Without "Due Process:" Unconstitutional Law in Oregon*, 49 Ore. L. Rev. 125, 133-34 (1970).
(85) Falk, *The Supreme Court of California 1971-72, Foreward*, 61 Cal. L. Rev. 273, 286 (1973).
(86) *E.g.*, Shaman & Turkington, *supra* note (8).
(87) Aldisert, *supra* note 43, at 559.
(88) *Id.*
(89) Letter from M. Gross to the author (Dec. 5, 1975).

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KRAUSE, L. B., and SALANT, W. S.
Worldwide Inflation — Theory and Experience
Brookings Institution, Washington D.C. 1977, 686 pp., $19.95

During the current decade inflation has become a major concern of the western nations while the communist economies, partially protected by their relative segregation from the non-communist economies, have also suffered some degree of inflation. This publication — prepared during the years of exceptionally high inflation (1974-75) — is concerned primarily with the problems of the major western powers, with the problems facing the smaller nations of the free world, and particularly with the problem of the transmission of inflation from one nation to another.

It is significant to observe that during the years of peak inflation, fixed exchange rates facilitated the rapid transmission of this disturbing phenomenon from one country to another, and that the introduction of floating exchange rates was followed by a world-wide decline of the rate of inflation — though a direct causal connection between fixed exchange rates and the rapid spread of inflation might still be contested by many economists. Indeed, Walter S. Salant sketches a "supra-national" policy for the control of worldwide inflation (on the assumption that fixed exchange rates would prevail into the future) in what may be regarded as a step towards the introduction of a single, universal worldwide currency. In the event, however, inflation has led many governments to abandon fixed rates of currency exchange..

Although it may be argued that many governments prefer to permit limited inflation as a means of stimulating the economy, subsidizing government spending (through concealed inflation-taxation), and reducing the interest-burden on the public debt, excessive inflation proves too disruptive — and is too unpopular with the electorate — to be tolerated by any democratic government which is interested in its own survival. As a result, many economists believe that a continuation of the present rates of inflation in the U.S.A. and other major trading countries may force more nations to adopt protectionist policies.

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